

# **2009 Medical Malpractice Claims Report**



**Department of Commerce & Insurance  
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# INTRODUCTION

In 2004, the Tennessee General Assembly enacted 2004 Tenn. Pub. Acts ch. 902 which established medical professional liability claims reporting obligations for various reporting entities. This law was codified at Tenn. Code Ann. § 56-54-101. Pursuant to Tenn. Code Ann. § 56-54-101(a), “reporting entities” was defined to include insurance companies and risk retention groups that provide medical malpractice or professional liability insurance, as well as health care professionals and facilities lacking medical malpractice insurance. This law was passed after months of testimony and research by the Joint Tort Reform Subcommittee chaired by State Representative Rob Briley and Senator David Fowler. The Final Report prepared by the Subcommittee recommended passage of legislation that would “provide the committee with a clearer picture of the litigation and claim trends in Tennessee...” The Department of Commerce and Insurance (the “Department”) provided testimony to the Subcommittee and actively participated in the development of legislation implementing the Subcommittee’s recommendations.

In general, Tenn. Code Ann. § 56-54-101 required reporting entities, on or before April 1 of each year, to provide information to the Department concerning the number of medical malpractice or professional liability claims asserted, the amount of damages alleged, any damages paid, the types of paid damages, and legal fees paid. The reporting requirements, as originally enacted, focused on the claims that were closed and pending during each calendar year.

Tenn. Code Ann. § 56-54-101 required the Department to prepare an annual report for the Speakers of the Senate and House of Representatives summarizing this data each year. The statute prescribed that the report may only contain aggregate data.

As a result of the information submitted by the reporting entities for the 2004 calendar year, the Department issued its first report in November of 2005. The report identified several issues relating additional information that should be reported and the General Assembly modified the reporting requirements in the 2006 legislative session. On May 23, 2006 Tenn. Pub. Acts ch. 744 was enacted which amended Tenn. Code Ann. § 56-54-101 to attempt to refine the information to be collected. In general, the amendment added a requirement that reporting entities report on the cumulative amount of costs and expenses spent on pending and closed claims from the “inception date of the claim to the end of the preceding calendar year.”

In 2008, the Tennessee General Assembly enacted 2008 Tenn. Pub. Acts ch. 1009, effective January 1, 2009, which replaced Tennessee Code Annotated Title 56 (Insurance) Chapter 54 (Reports on Medical or Professional Malpractice Claims) with the Tennessee Medical Malpractice Reporting Act. It sets out largely the same reporting requirements, makes the reporting entities’ reports due March 1 of each year, and adds, among other things, information to be collected in a manner consistent with the National Practitioner Data Bank. It defines a claim as, “A demand for monetary damages for injury or death caused by medical malpractice; or a voluntary indemnity payment for injury or death caused by medical malpractice.”

Where useful, this report provides not only the aggregate information for 2008, but also shows the information reported for 2005, 2006 and 2007 as a convenience to the reader.

## I. Reporting Entities

The information provided by this report is primarily comprised of information obtained from insurance companies writing medical malpractice insurance in this state. It is important to note that the top ten (10) medical malpractice insurance carriers account for over ninety-seven percent (97%) of the total medical malpractice direct premiums written in Tennessee in 2008. To date, the Department has identified two (2) insurance companies that failed to comply with the statute's reporting obligations. The 2008 malpractice premiums for the two (2) companies whose claim data is not included in this report totaled \$4,839,510 or 2.15% of the total direct written premiums for medical malpractice insurance in this state. In addition to requiring insurance companies to report required information, Tenn. Code Ann. § 56-54-105 requires those health care facilities and professionals that are uninsured to report information about their medical malpractice claim experience. As identified in the previous reports, the Department remains unable to confirm that the information from this group is complete as it has no information concerning which facilities or professionals are, in fact, uninsured. Thus, while the Department has received information from health care facilities and has included that information in this report, it can not be determined whether the Department has received information from all of them. As such, there may be claims and costs incurred in this state that are not included in this report.<sup>1</sup>

## II. Reporting Period

The period on which this report focuses is the 2008 calendar year. The Department required reporting entities to complete two (2) separate forms to meet their obligations under 2008 Tenn. Pub. Acts ch. 1009. One reporting form solicited information regarding all medical malpractice claims closed or otherwise resolved in 2008. The second form solicited information concerning medical malpractice claims that were still considered pending as of December 31, 2008.<sup>2</sup> Claims identified in the information submitted related to incidents occurring between 1978 and 2008. However, only 310 of the 8,934 claims reported (2.77%) arose out of an incident that occurred prior to 2000.<sup>3</sup>

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<sup>1</sup> As was the case in the previous reports, the Department received claims information from some health care facilities. However, just as before, the Department did not receive any information directly from any uninsured health care professionals. Until the Department is given an ability to identify this population and the uninsured health care facilities, as well as compel risk retention groups to report their information, the Department will remain unable to confirm the completeness of the information contained in these reports. Still, it is estimated that the total number of claims for this category is relatively minor compared to those that were insured during the reporting period. It should also be noted that although counsel for claimants asserted that thirty (30) claims did not fall within the boundaries of these laws, they are included in this report as reported by the insurers and facilities. The damages reported by counsel for claimants as paid on those claims totals \$3,446,658.

<sup>2</sup> The Department made the forms available to reporting entities on its web site for easy access. The Department anticipates making further refinements to the forms to more accurately and clearly request the information sought under Tenn. Code Ann. § 56-54-101 *et. seq.*

<sup>3</sup> Two (2) of the reported claims arise from events occurring in the 1970's, eighteen (18) of the claims occurred in the 1980's, and two hundred ninety (290) of the claims occurred in the 1990's.

### III. Claims Closed and Claims Pending

#### A. Claims Closed

The total number of medical malpractice claims reported as closed in 2008 was 3,154. This total represents claims resolved through the entry of a final court judgment, settlement with the claimant, by alternative dispute resolution (ADR) such as arbitration, mediation, private trial, and other common dispute resolution method, or otherwise resolved by the reporting entity.

The following table demonstrates the comparative number of claims reported as closed in each of the four (4) categories:

**Table 1 – Claims Closed through Settlement, Adjudication, Alternative Dispute Resolution (ADR)<sup>4</sup> or Other Resolution**

	2005 Totals	2005 Percent- ages	2006 Totals	2006 Percent- ages	2007 Totals	2007 Percent- ages	2008 Totals	2008 Percentages
Claims Resolved Through Judgment <sup>5</sup>	5	0.18	6	0.20	313	10.28	425	13.48
Claims Resolved Through Settlement	461	16.31	453	15.24	492	16.17	459	14.55
Claims Resolved Through ADR	N/A	N/A	N/A	N/A	N/A	N/A	43	1.36
Claims Otherwise Resolved	2,361	83.52	2,514	84.56	2,238	73.55	2227	70.61
Total Number of Claims Closed	2,827	100.00	2,973	100.00	3,043	100.00	3,154	100.00

#### B. Claims Pending

Pending claims are claims filed in 2008 or in prior years which were still unresolved as of December 31, 2008. It was reported that there were 5,780 claims pending as of December 31, 2008.

<sup>4</sup> No ADR is shown for the years 2005-2007 because that data was not collected in those years.

<sup>5</sup> This figure includes judgments for the defendant. The corresponding number in the reports for previous years did not include judgments for the defendant. Note also that beginning in 2007, these numbers do not include the judgments where the parties resolved the matter and paid through settlements.

## IV. DAMAGES AND COSTS

### A. Damages Asserted by Claimants

The total damages asserted in lawsuits for the claims reported as settled, adjudicated or resolved through ADR in 2008 was \$9,276,127,592. The total damages asserted other than by lawsuit for the claims settled, resolved through ADR or otherwise in 2008 was \$10,028,992.

The total damages asserted in lawsuits for pending claims in 2008 were \$18,210,809,071. The total damages asserted other than by lawsuit for pending claims in 2008 was \$5,712,819.

### B. Damages Paid to Claimants

The following table demonstrates the amounts reported to have been paid in damages in 2008 for claims settled, adjudicated or resolved through ADR:

**Table 2 – Amounts Paid In Damages for Claims Settled, Adjudicated or ADR**

	2005 Totals	2005 Percent-ages	2006 Totals	2006 Percent-ages	2007 Totals	2007 Percent-ages	2008 Totals	2008 Percent-ages
Total Damages Paid by Settlements	\$119,091,990	95.15	\$100,223,337	95.29	\$116,691,921	92.45	\$83,035,550	69.59
Total Damages Paid by Judgments	\$6,075,724	4.85	\$4,951,459	4.71	\$9,533,574	7.55	\$790,000	0.66
Total Damages Paid by ADR	N/A	N/A	N/A	N/A	N/A	N/A	\$35,492,893	29.75
Total Damages Paid	\$125,167,714	100.00	\$105,174,796	100.00	\$126,225,495	100.00	\$119,318,443	100.00

### C. Judgments

In all, it was reported that there were four hundred twenty-six (426) court judgments in 2008. It was reported that four hundred twenty (420) of these judgments resulted in favorable rulings for the defendant where no damages were awarded to the claimant. Five (5) judgments were entered in favor of the plaintiff.<sup>6</sup> The following table details the four (4) judgments paid in 2008 and the amount and types of damages awarded in each case:

**Table 3 – Total Damages Awarded By Final Court Judgment**

Judgment Amount	Date of Occurrence	Damages Claimed in Lawsuit	Type of Provider/Specialty/Facility	Economic Damages	Non-Economic Damages	Punitive Damages
\$140,000	2000	\$0	Nursing Home	\$0	\$140,000	\$0
\$250,000	1998	\$290,000	Other/Physician Assistant	\$25,000	\$225,000	\$0
\$350,000	2003	\$5,000,000	Hospital	\$175,000	\$175,000	\$0
\$1,150,000	2005	\$2,750,000	Chiropractic/Chiropractor-Chiropractic Physician	\$575,000	\$575,000	\$0

### D. Fees Paid to Claimants' Counsel

Tenn. Code Ann. § 56-54-105 requires counsel for claimants asserting medical malpractice claims to report their fee arrangements. The attorneys reported having received fees in the amount of \$38,802,022 in 2008. This includes referral fees received. Fees received by attorneys in 2008 are 32.52% of the total amount reported by other entities as paid by settlements, judgments, and ADR. The following table details the monies paid to claimants' counsel:

**Table 4 – Total Fees Paid to Claimants' Counsel on Claims in 2008<sup>7</sup>**

Fees Paid to Claimants' Counsel for Closed Claims	Average Amount of Settlements Paid to Claimants' Counsel	Average Amount of Judgments Paid to Claimants' Counsel	Average Amount of ADRs Paid to Claimants' Counsel
\$38,802,022	23.09%	26.50%	25.19%

<sup>6</sup>Two (2) were settled after trial. One was paid by judgment and settlement, so the amount paid by judgment and the amount paid by settlement are reflected accordingly in Tables 2 and 3. The other was paid by settlement, so the amount paid is reflected accordingly in Table 2.

<sup>7</sup>The numbers used for this table are completely derived from numbers reported by claimants' counsel. Despite efforts by the Department to encourage the reporting by claimants' counsel, not all such attorneys filed reports with the Department. According to the insurance reporting entities, approximately 355 lawyers represented claimants that received money in 2008. Only 273 attorneys reported receiving fees in 2008. Thus the information reported is based on the information the Department did receive from the reporting attorneys. However, this was the third year that the law required claimants' counsel to file reports, and more reported this year than in prior years.

Of the reported claims, the majority of attorneys reported contingency agreements of thirty-three percent (33%) of the total damages. However, the range for fee agreements was from zero percent (0%) to seventy-one percent (71%).

**E. Total Defense Costs and Expenses Paid on Claims**

The total defense costs reported to have been paid during 2008 was \$87,424,366. The following table details the defense costs paid in 2008 on closed and pending claims:

**Table 5 – Total Amounts Paid in Defense Costs in 2008**

	Fees Paid to Defense Counsel	Expert Witness Fees	Court Costs	Deposition Costs	Other Legal Fees
Pending Claims	\$56,347,702	\$5,135,883	\$27,331	\$1,122,991	\$3,809,575
Closed Claims	\$17,203,515	\$1,825,464	\$68,842	\$367,581	\$1,515,482
Total	\$73,551,217	\$6,961,347	\$96,173	\$1,490,572	\$5,325,057

The total defense costs paid on closed and pending claims as of December 31, 2008, since the inception of such claims, was \$214,222,964. The following table details these defense costs:

**Table 6 – Total Amounts Paid in Defense Costs on Claims from Inception to Year End**

	Fees Paid to Defense Counsel	Expert Witness Fees	Court Costs	Deposition Costs	Other Legal Fees
Pending Claims	\$119,183,210	\$10,187,054	\$115,886	\$2,419,357	\$7,099,769
Closed Claims	\$62,401,409	\$6,087,427	\$107,210	\$1,542,290	\$5,079,352
Total	\$181,584,619	\$16,274,481	\$223,096	\$3,961,647	\$12,179,121

**F. Fees Paid to Defense Counsel**

The total fees reported to have been paid to defense counsel in 2008 was \$73,551,217. For purposes of comparison, the total defense fees reported as being paid in 2005, 2006 and 2007 was \$61.7 million, \$67 million and \$78.6 million, respectively.

## V. CLAIM CHARACTERISTICS OF CLAIMS CLOSED IN 2008

As was mentioned previously, 2008 Tenn. Pub. Acts ch. 1009, effective January 1, 2009, sets out additional and more specific information to be reported about each claim. That information includes the injured person's sex and age on the incident date, the severity of the injury, the reason for the medical malpractice claim, and the geographic location where the incident occurred. Also required is more specific information about the health care facilities and health care providers against whom the claims were made. The tables and charts that follow provide descriptions of such information as reported regarding claims closed in 2008.<sup>8</sup>

### A. Reason for Medical Malpractice Claim

Tenn. Code Ann. § 56-54-106(12) requires insuring entities, self-insurers, facilities and providers to report the reason for the medical malpractice claim using the same allegation group and specific allegation codes that are used for mandatory reporting to the National Practitioner Data Bank. The following tables and charts show the top ten allegation groups and the top ten specific allegation codes ranked by number of claims closed in 2008 and the total amounts paid since the inception of the claims.

**Table 7 – Allegation Group Ranked by Number of Claims Closed in 2008**

Allegation Group	Number of Claims	Amount Paid Since Inception of Claim	Percentages of Amount Paid
Other Miscellaneous	1211	\$20,157,217	12.26
Treatment Related	556	\$44,781,733	27.23
Diagnosis Related	378	\$19,731,179	12.00
Monitoring Related	323	\$32,120,350	19.53
Surgery Related	233	\$9,561,581	5.81
Obstetrics Related	127	\$28,661,250	17.43
Medication Related	103	\$3,297,165	2.00
Equipment/Product Related	67	\$1,570,982	0.96
Anesthesia Related	66	\$1,090,908	0.66
IV & Blood Products Related	45	\$3,462,955	2.11
<b>TOTALS</b>	<b>3109</b>	<b>\$164,435,320</b>	<b>99.99</b>

<sup>8</sup> The data included here about the age, severity of injury, and geographic location is derived from the claim reports relative to the claim incidents/occurrences and does not include data from the claim reports on companion claims. The data included here about the facilities, providers and the reasons for the medical malpractice claims is derived from all of the claim reports including those about companion claims.

Chart 1 – Allegation Group Ranked by Amount Paid Since Inception of Claims

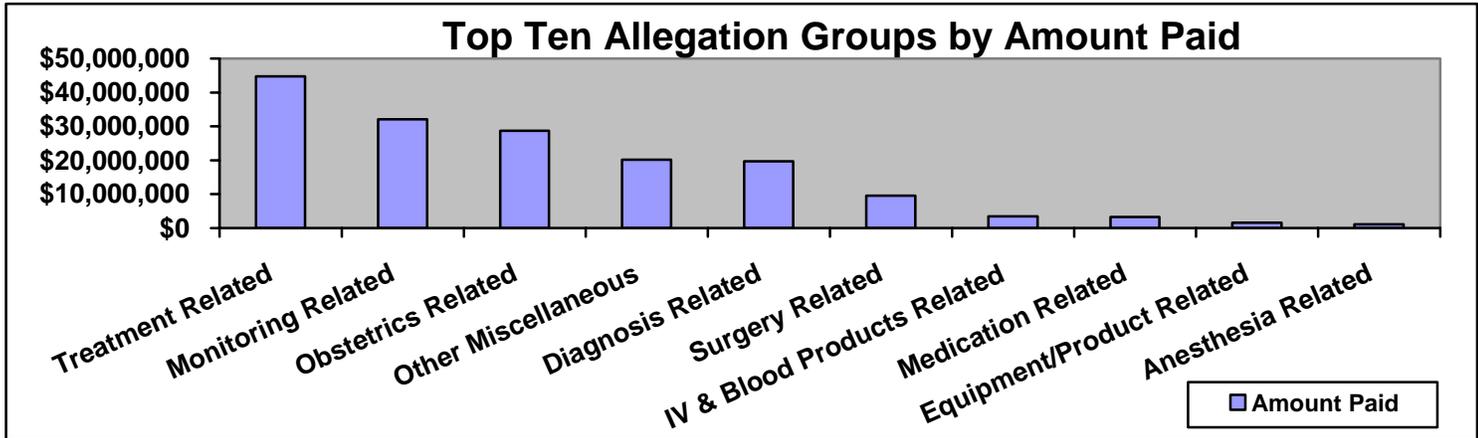
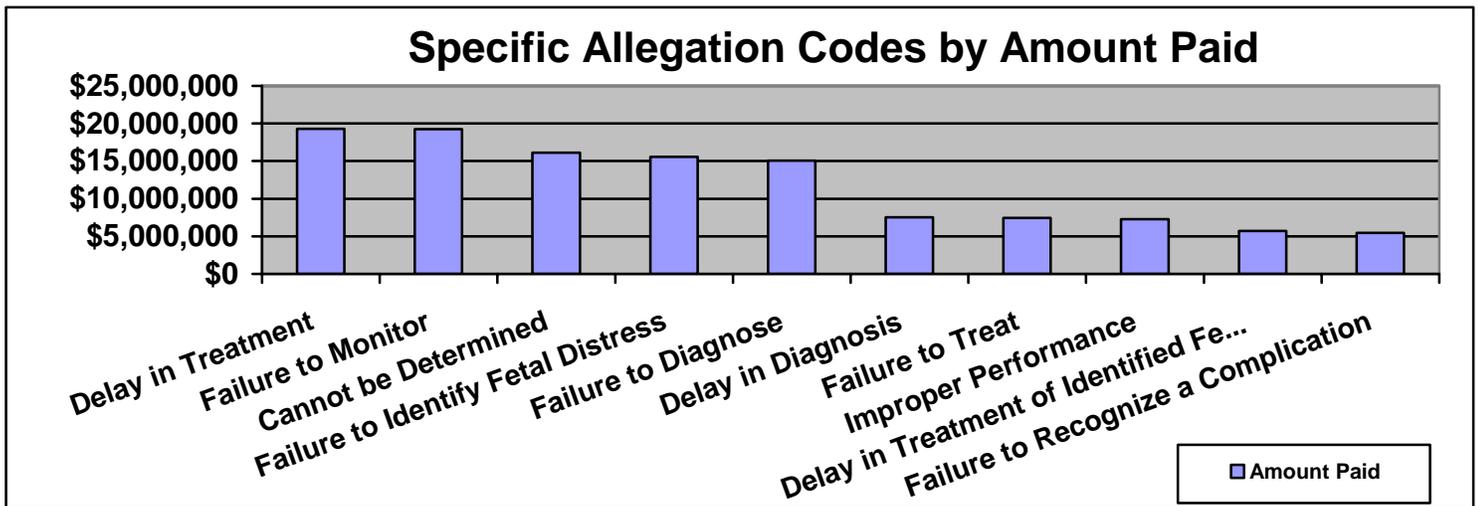


Table 8 – Top Ten Specific Allegation Codes Ranked by Number of Claims Closed in 2008

Specific Allegation Code Type	Number of Claims	Amount Paid Since Inception of Claims	Percentages of Amount Paid
Cannot be Determined from Available Records	1037	\$16,105,835	9.79
Failure to Diagnose	219	\$15,050,700	9.15
Failure to Monitor	196	\$19,227,663	11.69
Improper Performance	160	\$7,279,152	4.43
Failure to Ensure Patient Safety	117	\$2,762,355	1.68
Failure to Treat	114	\$7,435,877	4.52
Improper Management	103	\$5,143,000	3.13
Delay in Treatment	93	\$19,274,500	11.72
Delay in Diagnosis	85	\$7,513,500	4.57
Allegation – Not Otherwise Classified	71	\$980,225	0.60
<b>TOTALS</b>	<b>2195</b>	<b>\$100,772,807</b>	<b>61.28</b>

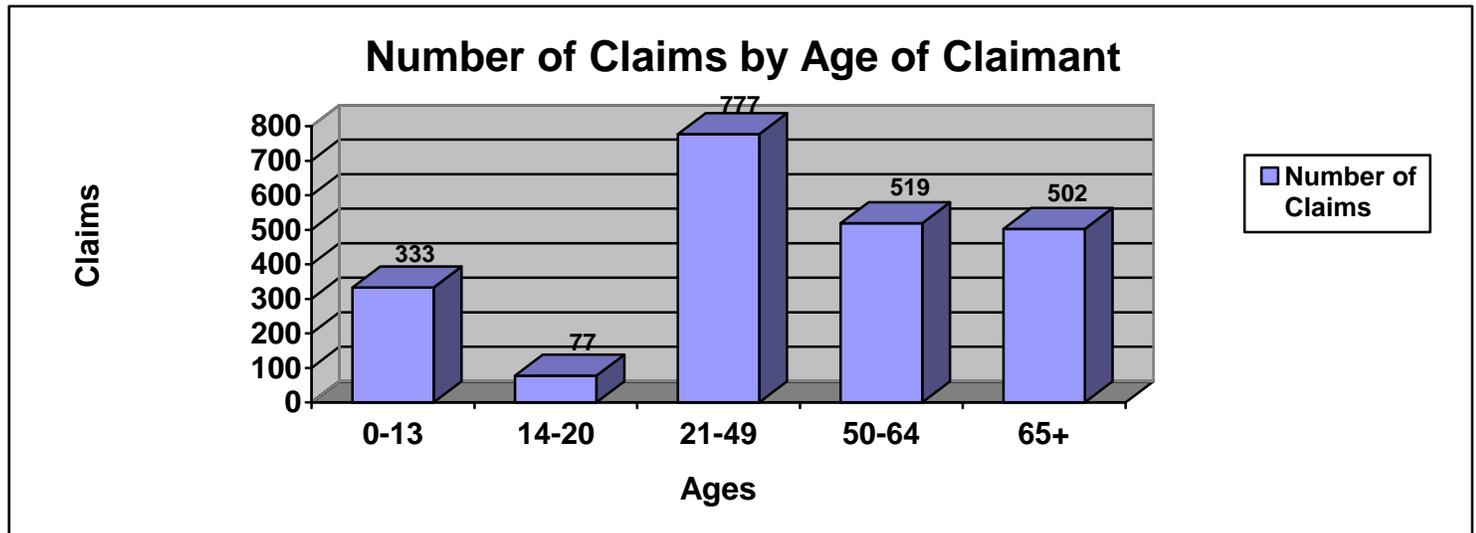
Chart 2 – Top Ten Specific Allegation Codes Ranked by Amount Paid Since Inception of Claims



## B. Age Groups and Severity of Injury

Tenn. Code Ann. § 56-54-106 requires insuring entities, self-insurers, facilities and providers to report the injured person's age on the incident date. The following chart shows the number of claims which were closed in 2008 in each claimant age group:

Chart 3 – Number of Claims Ranked by Age and Closed in 2008



The claimants' ages are grouped and described in the following table by the severity type and the number of claims closed in 2008 for each group.

Table 9 – Number of Claims Closed in 2008 by Age Group and Severity of Injury

Severity Code	0-13 Years	14-20 Years	21-49 Years	50-64 Years	65+ Years	Total Number of Closed Claims
Emotional Only	14	3	58	38	10	123
Insignificant	16	5	74	39	16	150
Minor Temporary	50	13	160	100	94	417
Major Temporary	33	13	110	72	75	303
Minor Permanent	14	6	43	28	19	110
Significant Permanent	25	6	64	41	30	166
Major Permanent	28	1	33	16	20	98
Grave Permanent	33	5	20	20	16	94
Death	53	19	156	111	199	538
Cannot Be Determined	46	5	36	38	16	141
Unknown	21	1	23	16	7	68
<b>TOTALS</b>	<b>333</b>	<b>77</b>	<b>777</b>	<b>519</b>	<b>502</b>	<b>2208<sup>9</sup></b>

<sup>9</sup> Twenty-eight (28) claims were identified where the age of the injured party was unavailable to the insuring entity. These claims were not included in this total.

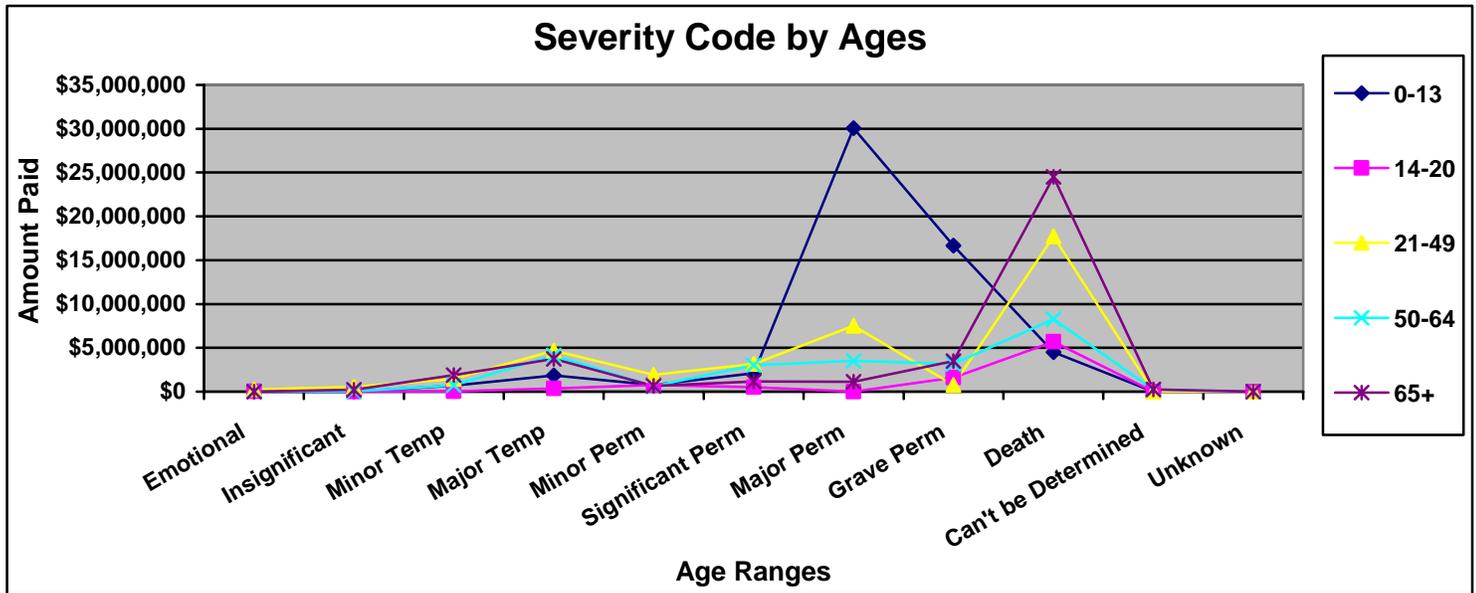
Tenn. Code Ann. § 56-54-106 requires insuring entities, self-insurers, facilities and providers to report the severity of the malpractice injury using the National Practitioner Data Bank severity scale. The following table describes those levels of severity by the number of claims and the amounts paid on claims closed in 2008 at each level of severity.

**Table 10 – Severity of Injury in Claims Closed in 2008**

Severity Code	Number of Claims	Amount Paid Since Inception of Claim	Percentages by Amount Paid
Emotional Only	123	\$314,375	0.19
Insignificant	150	\$822,857	0.50
Minor Temporary	417	\$4,785,262	2.91
Major Temporary	303	\$14,761,723	8.98
Minor Permanent	110	\$4,709,859	2.86
Significant Permanent	166	\$9,964,907	6.06
Major Permanent	98	\$42,252,437	25.69
Grave Permanent	94	\$25,658,019	15.60
Death	538	\$60,663,764	36.89
Cannot be determined from available records	141	\$486,617	0.30
Unknown	68	\$28,000	0.02
<b>TOTALS</b>	<b>2208</b>	<b>\$164,447,820</b>	<b>100.00</b>

The following chart describes the relationship among the claims closed in 2008 between the age groups and the severity of injuries by the total amounts paid in each level of severity by age group.

**Chart 4 – Severity Code Ranked by Ages at Time of Injury**



### C. Geographic Location

Tenn. Code Ann. § 56-54-106 requires insuring entities, self-insurers, facilities and providers to report the geographic location, by city and county, where the medical malpractice incident occurred. Only eighty-four (84) counties were reported to have been the geographic location of an incident giving rise to a claim closed in 2008. Of the 2208 claims reported with a Tennessee geographic location the total payment made was reported as \$118,945,945. The average number of claims per county was twenty-six (26), and the average amount paid per county was \$1,416,023.<sup>10</sup>

The following table shows the top ten (10) counties which account for 78.22% of the total number of medical malpractice claims closed in 2008.

**Table 11 – Top Ten Counties Ranked by Number of Claims Closed in 2008**

County Name	Number of Claims	Percentages of Claims
Shelby	752	34.05
Davidson	315	14.27
Knox	171	7.74
Hamilton	164	7.43
Madison	63	2.85
Sullivan	61	2.76
Washington	42	1.90
Rutherford	39	1.77
Hamblen	32	1.45
Montgomery	30	1.36
TOTALS	1669	75.58

The following table shows the top ten (10) counties ranked by total amount paid for medical malpractice claims closed in 2008.

**Table 12 – Top Ten Counties Ranked by Amount Paid on Claims Closed in 2008**

County Name	Amount Paid	Percentages of Amount Paid
Shelby	\$66,018,729	40.15
Davidson	\$30,405,226	18.49
Knox	\$15,694,123	9.54
Cocke	\$6,820,000	4.15
Madison	\$6,140,251	3.73
Hamilton	\$5,291,982	3.22
Hamblen	\$4,011,757	2.44
Montgomery	\$3,327,500	2.02
Sullivan	\$3,277,276	1.99
Coffee	\$1,907,300	1.16
TOTALS	\$142,894,144	86.89

<sup>10</sup> The averages did not take into account the out-of-state totals reported. There were a total of thirty-seven (37) cases reported which occurred outside of the state of Tennessee for a total amount paid of \$372,500 dollars.

## D. Facilities and Providers

Tenn. Code Ann. § 56-54-106 requires insuring entities, self-insurers, facilities and providers to report the type and medical specialty (if applicable) of the provider named in the claim and the type of health care facility where the medical malpractice incident occurred. Tenn. Code Ann. § 56-54-103 defines “health care provider” or “provider” as a person licensed in either title 63, except chapter 12, or title 68 to provide health care or related services, including, but not limited to, an acupuncturist, a physician, a surgeon, an osteopathic physician, a dentist, a nurse, an optometrist, a podiatrist, a chiropractor, a physical therapist, a psychologist, a pharmacist, an optician, a physician assistant, a certified professional midwife, an orthopedic physician assistant, or a nurse practitioner, or an employee or agent of any of the foregoing while acting in the course and scope of the employee’s or agent’s employment. It defines “health care facility” or “facility” as an entity licensed under title 68, including a clinic, diagnostic center, hospital, laboratory, mental health center, nursing home, office, surgical facility, treatment facility, or similar place where a health care provider provides health care to patients.

The following tables compare claims made against providers and claims made against facilities by the number of claims and the amounts paid on claims closed in 2008.

### 1. Provider Types and Specialties

The following tables describe the number of claims and the amount paid on claims against provider types reported on claims closed in 2008. Since the top ten (10) types and ranking are different by number of claims and amounts paid, both are shown.

**Table 13 – Top Ten Provider Types Ranked by Number of Claims**

Provider Type	Number of Claims	Amount Paid Since Inception of Claim	Percentages of Amount Paid
Medical & Surgery (Physician)	1888	\$45,999,413	27.97
Nursing	211	\$24,292,098	14.77
Other	158	\$11,866,197	7.22
Dentist	73	\$684,654	0.42
Nursing Home Administrator	61	\$6,672,830	4.06
Nursing APN Specialties	36	\$4,083,450	2.48
Osteopathic Medicine	24	\$98,499	0.06
Podiatry	24	\$404,999	0.25
Emergency Medical Personnel	20	\$1,150,000	0.70
Pharmacy	18	\$525,271	0.32
TOTALS	2513	\$95,777,411	58.25

**Table 14 – Top Ten Provider Types Ranked by Amount Paid**

Provider Type	Number of Claims	Amount Paid Since Inception of Claim	Percentages of Amount Paid
Medical & Surgery (Physician)	1888	\$45,999,413	27.97
Nursing	211	\$24,292,098	14.77
Other	158	\$11,866,197	7.22
Nursing Home Administrator	61	\$6,672,830	4.06
Nursing APN Specialties	36	\$4,083,450	2.48
Chiropractic	7	\$1,350,000	.82
Emergency Medical Personnel	20	\$1,150,000	0.70
Dentist/Dental Surgeon/Oral Surgeon	73	\$684,654	.42
Pharmacy	18	\$525,271	0.32
Respiratory Care	1	\$500,000	.30
<b>TOTALS</b>	<b>2473</b>	<b>\$97,123,913</b>	<b>59.06</b>

The following tables describe the number of claims and the amount paid on claims against the top ten provider specialties reported on claims closed in 2008. Again, since the top ten (10) types and rankings are different by number of claims and by amounts paid, both are shown.

**Table 15 – Top Ten Provider Specialties Reported on Claims Closed in 2008**

Specialty	Number of Claims	Amount Paid Since Inception of Claim	Percentage of Amount Paid
Physician	1621	\$40,415,071	24.58
Unknown	181	\$12,254,622	7.45
Registered Nurse (RN)	177	\$23,555,573	14.32
Emergency Physician	100	\$2,378,333	1.45
Radiologist	77	\$1,903,834	1.16
Dentist/Dental Surgeon/Oral Surgeon	55	\$662,254	0.40
Nursing Home Administrator	45	\$6,819,330	4.15
Anesthesiologist	41	\$948,750	0.58
Other	35	\$813,025	0.49
Nurse Practitioner	28	\$1,668,200	1.01
<b>TOTALS</b>	<b>2360</b>	<b>\$91,418,992</b>	<b>55.59</b>

**Table 16 – Top Ten Specialties Ranked by Amount Paid Since Inception of Claims**

Specialty	Number of Claims	Amount Paid Since Inception of Claim	Percentage of Amount Paid
Physician	1621	\$40,415,071	24.58
Registered Nurse (RN)	177	\$23,555,573	14.32
Unknown	181	\$12,254,622	7.45
Nursing Home Administrator	45	\$6,819,330	4.15
Nurse Anesthetist	18	\$2,431,250	1.48
Emergency Physician	100	\$2,378,333	1.45
Radiologist	77	\$1,903,834	1.16
Nurse Practitioner	28	\$1,668,200	1.01
Chiropractor	7	\$1,350,000	.82
Psychiatrist	26	\$1,255,000	.76
<b>TOTALS</b>	<b>2280</b>	<b>\$94,031,213</b>	<b>57.18</b>

## 2. Facilities

The following tables describe the number of claims and amounts paid on claims against the top ten facilities reported on claims closed in 2008. As before, since the top ten (10) types and rankings are different by number of claims and by amounts paid, both are shown.

**Table 17 – Top Ten Facility Types Ranked by Number of Claims Closed in 2008**

Facility Type	Number of Claims	Amount Paid Since Inception of Claims	Percentages of Amount Paid
Hospital	459	\$51,846,678	31.53
Nursing Home	42	\$7,340,579	4.46
Other	29	\$379,250	0.23
Ambulatory Surgical Treatment Center	12	\$153,000	0.09
Clinic	8	\$3,003,803	1.83
Office	7	\$1,511,239	0.92
Home Care Organization	6	\$620,000	0.38
Surgical Facility	6	\$113,000	0.07
Assisted-Care Living Facility	5	\$194,098	0.12
Unknown	5	\$0	0.00
<b>TOTALS</b>	<b>579</b>	<b>\$65,161,647</b>	<b>39.63</b>

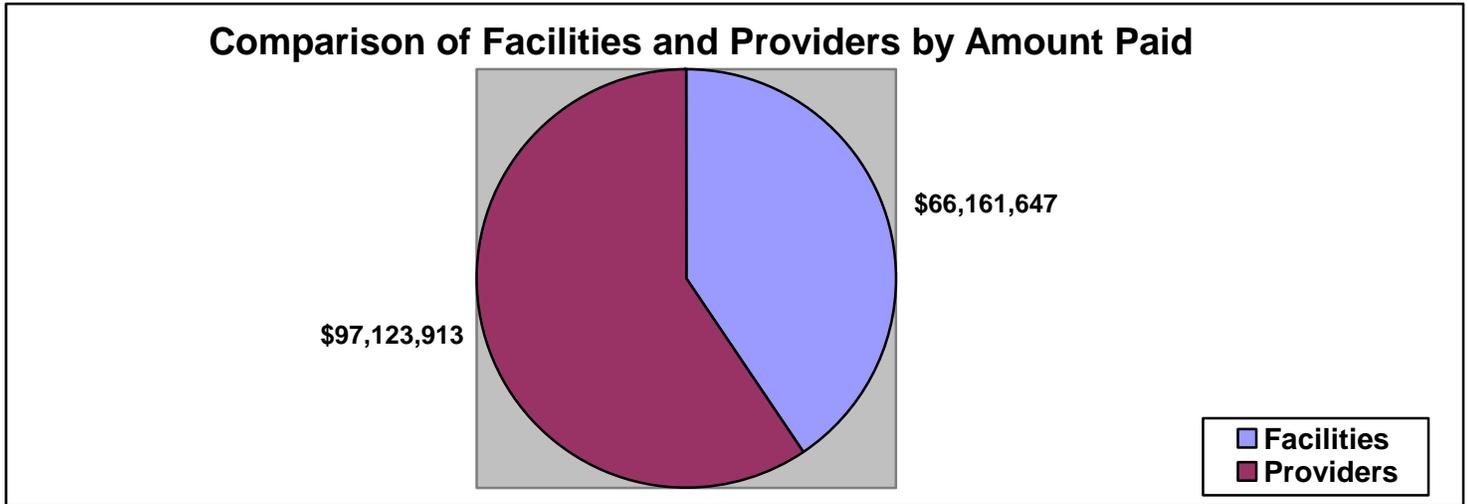
**Table 18 – Top Ten Facility Types Ranked by Amount Paid Since Inception of Claims**

Facility Type	Number of Claims	Amount Paid Since Inception of Claims	Percentages of Amount Paid
Hospital	459	\$51,846,678	31.53
Nursing Home	42	\$7,340,579	4.46
Clinic	8	\$3,003,803	1.83
Office	7	\$1,511,239	0.92
Home Care Organization	6	\$620,000	0.38
Other	29	\$379,250	0.23
Assisted-Care Living Facility	5	\$194,098	0.12
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Surgical Facility	6	\$113,000	0.07
Unknown	5	\$0	0.00
<b>TOTALS</b>	<b>579</b>	<b>\$65,161,647</b>	<b>39.63</b>

### 3. Facilities v. Providers

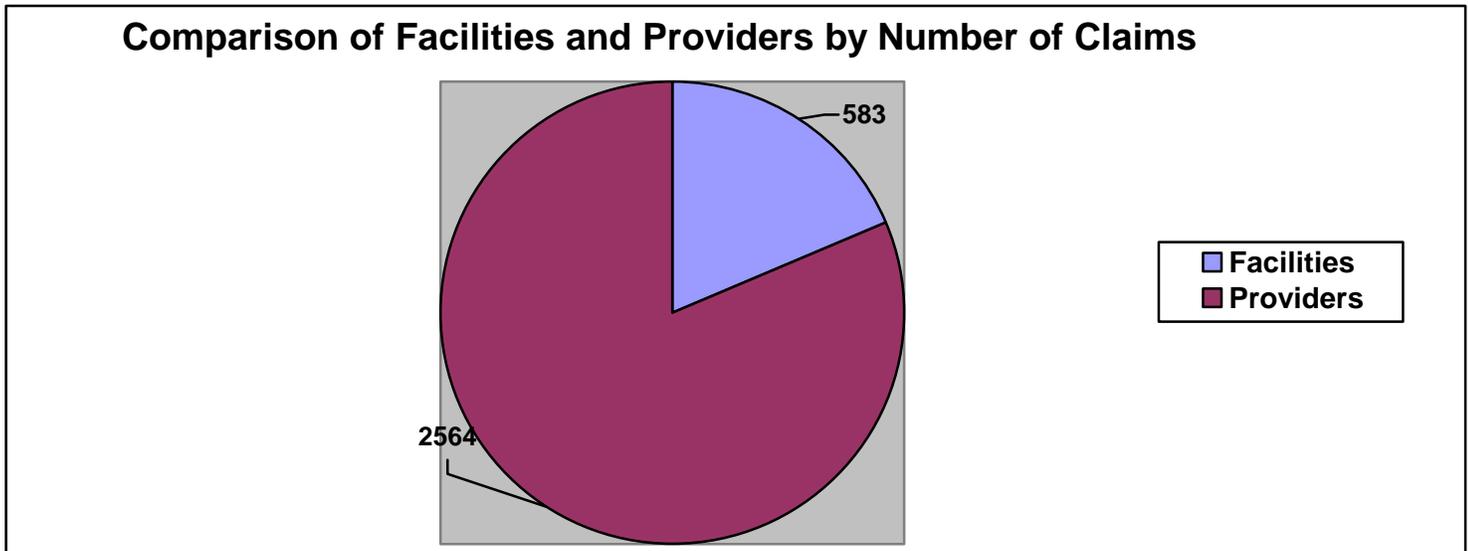
The following chart shows the amount paid by or on behalf of facilities and providers on claims closed in 2008:

**Chart 5 – Comparison by Amount Paid for Facilities and Providers since Inception of Claims**



The following chart shows the number of claims against facilities and providers closed in 2008:

**Chart 6 – Comparison by Number of Claims against Facilities and Providers**



## VI. 2008 DIRECT PREMIUM WRITTEN

The total direct medical malpractice premium written in 2008 in Tennessee by insurance companies and risk retention groups was \$220,117,000. This total was determined from their 2008 annual financial statements. This premium was for policies that may produce claim payments of unknown amounts in the future. Claim payments made during 2008 usually relate to policies and the corresponding premium from previous years.

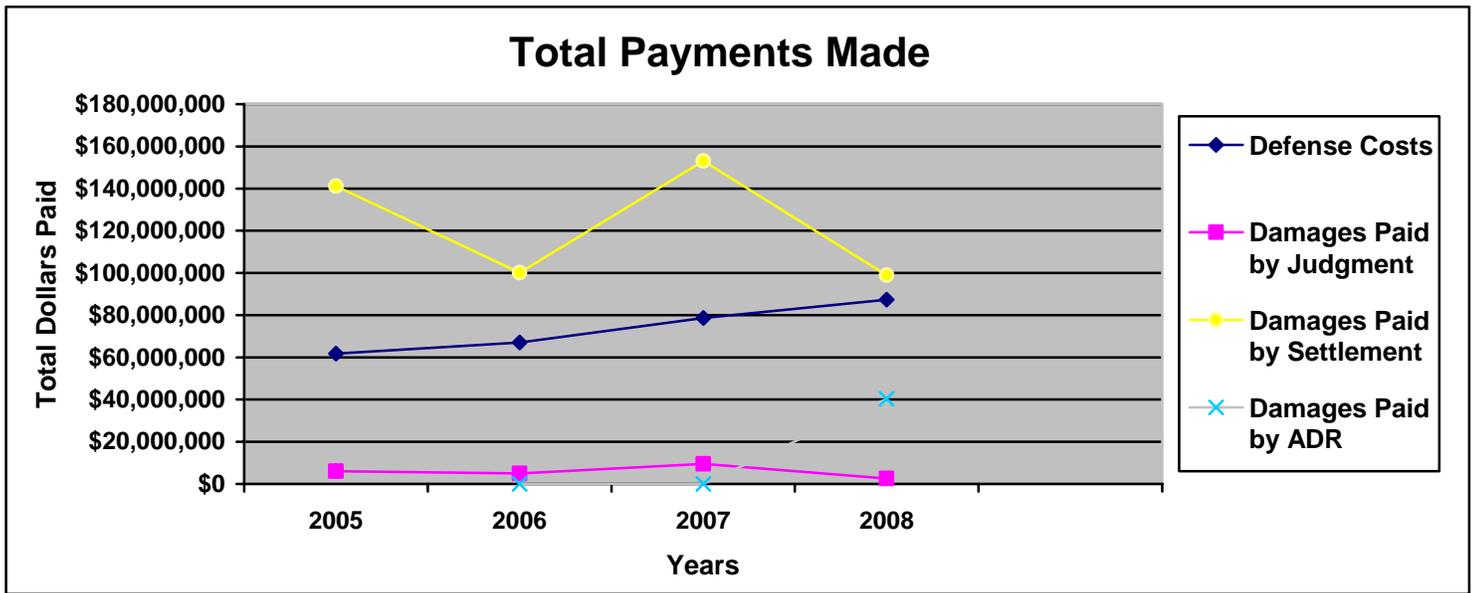
## VII. TOTAL PAYMENTS MADE IN 2008

The following table and chart show the total amounts paid on all claims in 2008, both closed and pending. The table details the amount paid in each category and the totals each year since 2005. The chart demonstrates the comparisons among the categories and the differences each year since 2005.

**Table 19 – Total Amounts Paid on Pending and Closed Claims**

	2005 Totals	2005 Percent-ages	2006 Totals	2006 Percent-ages	2007 Totals	2007 Percent-ages	2008 Totals	2008 Percent-ages
Total Defense Costs	\$61,768,804	29.56	\$67,027,197	38.92	\$78,633,644	32.61	\$87,424,366	38.13
Total Damages Paid by Settlement	\$141,082,277	67.53	\$100,223,337	58.20	\$153,004,743	63.44	\$98,922,662	43.14
Total Damages Paid by Judgment	\$6,075,724	2.91	\$4,951,459	2.88	\$9,533,574	3.95	\$2,573,604	1.12
Total Damages Paid by ADR	N/A	N/A	N/A	N/A	N/A	N/A	\$40,380,393	17.61
Total Payments	\$208,926,805	100.00	\$172,201,993	\$100.00	\$241,171,961	100.00	\$229,301,025	100.00

Chart 7 – Total Amounts Paid On Pending and Closed Claims



## VIII. Next Steps

The Department will work with the insurance industry and the other reporting entities as it relates to their 2010 reporting obligations.