

Hospital Professional Liability

Claim severity hits a new level



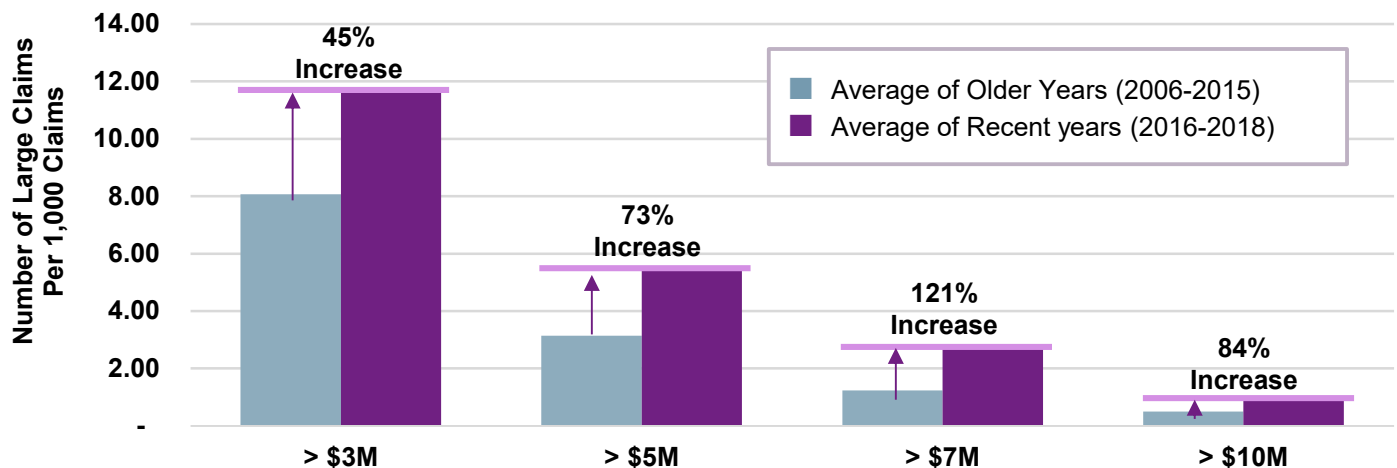
The health care industry is experiencing a significant increase in both multi-million dollar, single-plaintiff cases and batch cases

Plaintiffs are finding success in receiving “Mega” (8-figure) and “Nuclear” (9-figure) claims across various jurisdictions, nationwide. These catastrophic claims in conjunction with increasing prevalence of batch claims, a class-action version of medical malpractice claims, are changing the health care landscape. Recent examples include:

April 2019	July 2019	November 2019
A Bronx woman won a \$110.6 million jury verdict in a lawsuit against a Bronx hospital and four of its doctors. According to her attorney, Keimoneia Redish was severely injured after going to St. Barnabas Hospital for an asthma attack in 2010.	The largest medical malpractice verdict in recent U.S. history was awarded by a Maryland jury to Erica Byrom, totaling \$229 million after her daughter suffered a brain injury during birth at Johns Hopkins Bayview Medical Center.	A Cook county jury awarded a family \$101 million in a verdict against an Oak Park hospital after their son, Gerald Sallis, suffered severe brain damage. The jury found that nurses and staff at West Suburban Medical Center failed to properly monitor his mother when she visited the emergency room expressing concern about the baby she was carrying.

Our closed claims study indicates that trends in frequency-of-severity have dramatically shifted

The results of our analysis show concrete evidence of a significant increase in the number of large claims in the most recent years (2016-2018). Specifically, the number of large claim closures in the last ~3 years have spiked compared to the prior 10 years, with increases more pronounced in higher loss layers.



The study was based on Willis Towers Watson health care clients, encompassing 175 health systems and included:

- Over 75% of top 50 non-profit health system across the country
- Closed claim data, including 700,000 claims, amounting to \$40 billion of losses
- Claims sorted and grouped in the year in which the claim closed
- Claim counts and amounts purely based on actual client data

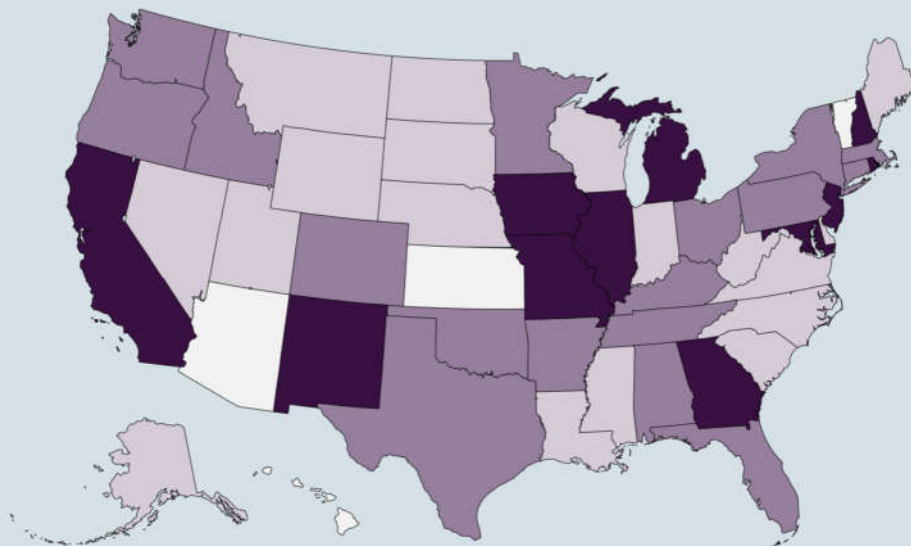
A variety of factors are contributing to the increase in large medical malpractice claims:

- Cultural attitude shifts toward more liberal plaintiff awards – juries often seek corporate accountability and are desensitized to large-value damages
- Health systems are becoming among the U.S.’s largest corporations through mergers and acquisitions, thus changing the historical perception of community hospitals making them a larger target for malpractice lawsuits
- Class-action verdicts in other industries are rippling to health care in the form of batch claims
- Advances in health care technology resulting in significant increases in values of life care plans
- Media attention and social movements such as “#MeToo” and “#TIMESUP”
- Tech-savvy plaintiff attorneys using technology such as Electronic Medical Records (EMR) for their own cases
- Plaintiffs are becoming more creative, working around tort caps, and in some cases, the tort caps are being eroded or overturned. For example, in California, plaintiffs are classifying claims as sexual misconduct and elderly abuse which are excepted from MICRA cap

Increases in Frequency of Large Claims > \$3M

(comparing the average of the latest years to prior years)

■ Significant Increase ■ Moderate Increase □ Decrease ■ Non-Credible*

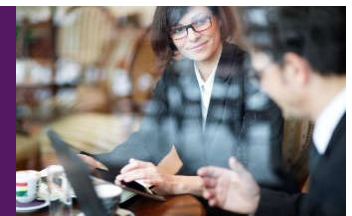


* Data volume was not sufficient to be conclusive

The states with the highest increases in the number of large claims greater than \$3M include:

- California
- Georgia
- Illinois
- Maryland
- New Jersey
- New Mexico

Our experts help clients prepare and plan for rising costs of HPL claims. We provide advice on how to optimize insurance coverage and quantify the impact of changes in retained limits and excess insurance.



Contact our experts to learn more:

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