

Citation

Cheney, FW: How Much Professional Liability Coverage Is Enough? Lessons From the ASA Closed Claims Project. *ASA Newsletter* 63(6):19, 21, 1999.

Full Text

The question is often asked, "How much coverage should be purchased for professional liability insurance?" While the answer will vary from state to state, "conventional wisdom" calls for \$1 million/\$3 million, or in some cases \$2 million/\$6 million. The first amount is for any single claim and the total annual claims cannot exceed the second number. We examined the ASA Closed Claims database to see if this "conventional wisdom" has any basis in fact.

At the time of this analysis, there were payments in 56 percent of the 4,459 claims ranging from \$15 to \$23.2 million. One-third of the payments were for \$30,000 or less, one-half were for \$100,000 or less, and three-quarters were for \$375,000 or less. There were 40 payments for \$1 million and 193 payments (4.3 percent of 4,459) of more than \$1 million. Sixty percent of the payments over \$1 million were made for brain damage and 27.5 percent were made for death. Sixty-five percent of the claims over \$1 million were settled for less than \$2.5 million [Figure 1]. The peak year for the number of patient injuries leading to a payment greater than \$1 million [Figure 2] was 1985, when 26 such injuries occurred. Since 1986, the percent of claims for which a payment of over \$1 million was made ranged from a high of 7 percent of total claims for the year 1988 to 1 percent in 1993 [Figure 2]. Inflation does not seem to be a major factor in that the number of payments for more than \$1 million have remained relatively stable in the late 1980s and early 1990s. The small number of payments over \$1 million in 1992 and 1993 may reflect incomplete data as injuries during those years may still be undergoing litigation in the late 1990s.

Figure 1

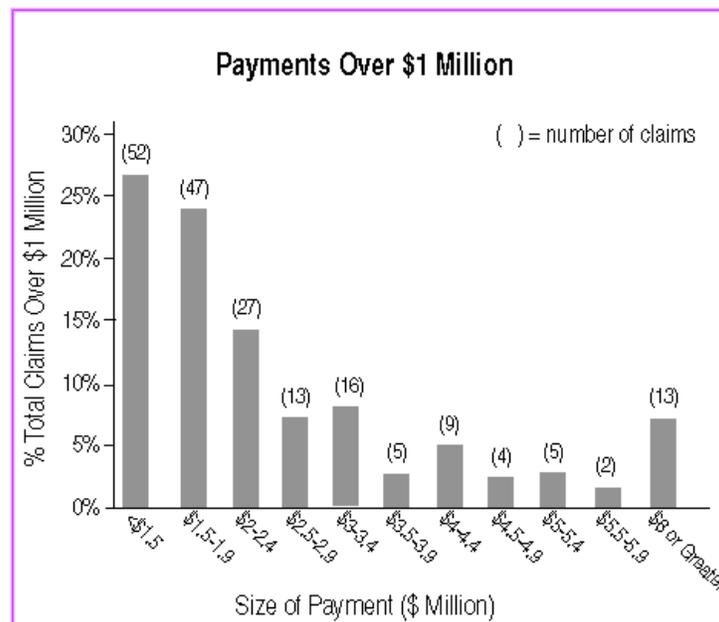
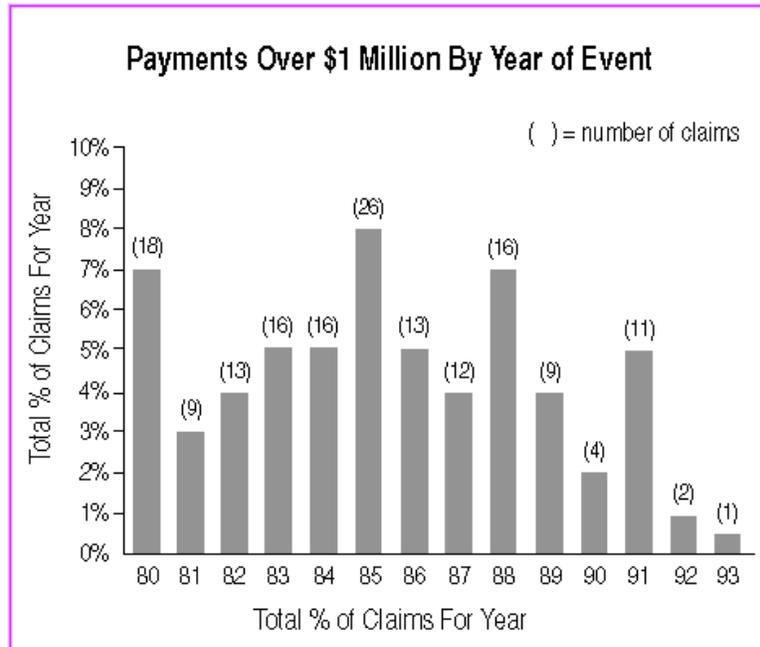


Figure 2



For claims over \$1 million, the care was considered substandard in 70 percent of cases and standard in 20 percent. In 10 percent, the standard of care was impossible to judge by the reviewers. Justice seems to be served as far as the patient is concerned in that most payments of more than \$1 million were for substandard medical care. For the anesthesiologist, however, it is not reassuring to have payments for more than \$1 million made when the care met acceptable standards.

The data should be interpreted with a number of reservations in mind. First, the amount of payout recorded for each case was the total amount from all sources, e.g., anesthesiologist, surgeon and hospital. Second, the amount does not include the cost of defense, which some companies may deduct from the policy limit. Third, we do not know from the data whether the settlement was structured, so the actual cash value, in many cases, may have been less than \$1 million. Therefore, the figure of 4.3 percent of the claims from the database costing more than \$1 million may be an overestimate of the anesthesiologist's liability. Finally, due to the lag time between patient injury and settlement/award, the data about the number of payments for events occurring in 1992 and later may be incomplete.

From these data however, it would seem that the "conventional wisdom" of a \$1 million policy limit per claim is supported by the data from the Closed Claims Project.

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