REVIEW OF OMIC CLAIMS DATA THROUGH 2015

ASCRS: May, 2016
New Orleans

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(NO CONFLICT OF INTEREST)

Overview of Claims and Lawsuits through 2015

• OMIC insures about 4,600 ophthalmologists nationwide

• Since 1987 over 4,100 closed claims and lawsuits in our database
  – “claim” = demand for money (lawsuit, letter from patient or attorney)

• Another 3,500+ incidents, etc. handled by Claims department

Insured Count to Claims
December 31, 2012

Overview of Claims and Lawsuits

• 20% of OMIC claims close with an indemnity payment to plaintiff
• Average indemnity payment = $164,000
• Highest indemnity payment = $3,375,000
• About 4% of cases go to jury trial and defense wins about 90%

It is not a matter of “if”, just “when”...

Probability of a Claim in 35 years

Assumes probability of a claim in a given year is 8%

Probability of a Paid Claim in 35 Years

Assumes probability of an indemnity payment in a given year is 2%
2015 Claims and Lawsuits
#205

- 16% (#33) of OMIC claims close with an indemnity payment to plaintiff
- Total indemnity paid = $6.9 million
- Average indemnity payment = $210,000
- Median $160,000
- Highest indemnity payment = $900,000

2015 Closed Claims by Specialty #205

Severity by Specialty

Claims Opened per year
as of December 31, 2015

Fifty-year Average opened/yr • Opened in 2015

Severity by Specialty

Settlements per year
as of December 31, 2014

Fifty-year Average • 2015 Average
Severity by Specialty

Settlements per year as of December 31, 2015

OMIC

Severity by Specialty Average

OMIC Pediatrics and Oculoplastics removed

Refractive Frequency

Refractive Claims by Date Reported (through December 31, 2015)

Avg. Indemnity Payments

Procedure/Treatment (OMIC data)

<table>
<thead>
<tr>
<th>Procedure/Treatment</th>
<th>Number</th>
<th>Total Millions</th>
<th>Median</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cataract Surgery</td>
<td>201</td>
<td>$22.0</td>
<td>$60,000</td>
</tr>
<tr>
<td>Medical Evaluation</td>
<td>80</td>
<td>$17.8</td>
<td>$100,000</td>
</tr>
<tr>
<td>Oculoplastics</td>
<td>79</td>
<td>$12.4</td>
<td>$75,000</td>
</tr>
<tr>
<td>Refractive Surgery</td>
<td>86</td>
<td>$11.4</td>
<td>$55,000</td>
</tr>
<tr>
<td>Retina</td>
<td>63</td>
<td>$10.0</td>
<td>$100,000</td>
</tr>
<tr>
<td>ROP</td>
<td>9</td>
<td>$4.3</td>
<td>$575,000</td>
</tr>
<tr>
<td>Glaucoma</td>
<td>39</td>
<td>$7.3</td>
<td>$135,000</td>
</tr>
<tr>
<td>Miscellaneous Other</td>
<td>79</td>
<td>$7.1</td>
<td>$30,000</td>
</tr>
<tr>
<td>Corneal</td>
<td>19</td>
<td>$4.1</td>
<td>$75,000</td>
</tr>
<tr>
<td>Trauma related</td>
<td>24</td>
<td>$3.6</td>
<td>$110,000</td>
</tr>
<tr>
<td>Local Anesthesia</td>
<td>11</td>
<td>$2.6</td>
<td>$85,000</td>
</tr>
<tr>
<td>Strabismus</td>
<td>11</td>
<td>$1.4</td>
<td>$100,000</td>
</tr>
</tbody>
</table>

As of August 18, 2011, OMIC policyholders had reported a total of 3654 claims

Claim: Policy definition

“A written notice or demand received by the insured for money or services, including the institution of a lawsuit or arbitration proceedings against the insured, resulting from a professional services incident”
Advertising & Premium IOL’S

FDA regulations permit advertising FDA devices by brand name and model as long as a brief statement of devices intended uses & all relevant warnings, precautions, contraindications and side effects are provided in the ad.

Off label use (eg. Refractive lens exchange) is legal under the practice of medicine exception for physicians to use FDA approved devices off-label.

ADVERTISING THIS USE IS PROHIBITED!

“Severity” - Large Losses

Over 24 years 694 paid claims (21% of all claims)
- Total paid to plaintiffs $106 million
- Only 15% (#100) of paid claims account for over 50% of indemnity paid ($55 million)
- What are the highest risk procedures and treatments?

FROM A WEBSITE:
"LENS REPLACEMENT IS A POPULAR COURSE OF TREATMENT FOR THOSE AGES 40+ WHO MAY NOT REALIZE THE LONG-TERM BENEFITS OF LASIK SURGERY AND FOR THOSE WHO MAY WANT TO CORRECT THEIR VISION FOR BOTH DISTANCE AND READING. THE NEW MULTIFOCAL IOLs MAKE LENS REPLACEMENT A POPULAR OPTION FOR SEEING AT A DISTANCE WHILE REDUCING THE NEED FOR READING GLASSES".

“if the FTC interpreted the law strictly, there could be no mention of IOLs, since they are all approved only for cataract surgery (i.e., all IOLs when used in RLE are off-label)"

"it seems that describing the RLE procedure and stating that the natural lens is replaced by one of the intracocular lenses used in cataract surgery seems to be a relatively safe and low risk statement. Any statement that could be construed as promoting the off-label use of an IOL could be construed as "advertising" and should be avoided".

OMIC’s 14 Largest Settlements

<table>
<thead>
<tr>
<th>Amount</th>
<th>Description</th>
<th>Specialty</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>$3,070,000</td>
<td>ROP</td>
<td>Retina/Ped</td>
<td>2007</td>
</tr>
<tr>
<td>$2,000,000</td>
<td>Glaucoma in 10 mo old baby</td>
<td>Pediatric</td>
<td>2009</td>
</tr>
<tr>
<td>$1,800,000</td>
<td>Glaucoma in 8 yr old</td>
<td>Pediatric</td>
<td>2001</td>
</tr>
<tr>
<td>$1,500,000</td>
<td>ROP</td>
<td>Peds</td>
<td>2011</td>
</tr>
<tr>
<td>$1,200,000</td>
<td>ROP/Peds</td>
<td>Plastic</td>
<td>2015</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>Uveitis in 2yr old</td>
<td>General</td>
<td>1999</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>Malign sarcoma/Pred overdose</td>
<td>General</td>
<td>2002</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>ROP</td>
<td>Pediatric</td>
<td>2009</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>ROP</td>
<td>Pediatric</td>
<td>2010</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>Phakic implant &amp; record</td>
<td>General</td>
<td>2011</td>
</tr>
<tr>
<td>$1,000,000</td>
<td>Ey 24 Foreign Body in Eye</td>
<td>General</td>
<td>2011</td>
</tr>
<tr>
<td>$999,999</td>
<td>Stroke post strab surgery</td>
<td>General</td>
<td>1999</td>
</tr>
<tr>
<td>$883,771</td>
<td>LASIK ectasia</td>
<td>Refractive</td>
<td>2006</td>
</tr>
</tbody>
</table>

12-31-2015