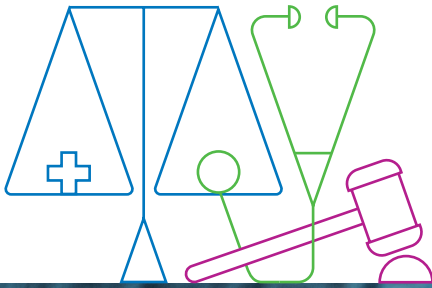


# SURGICAL SPECIALTY OVERVIEW



## SURGICAL CASE STUDY

**When the surgical team works together and attention is given to the facts, surgical “never events” can be prevented.**

### Brief Facts

- A 55-year-old patient with limited English proficiency presented to the surgeon with paperwork from the referring physician that indicated he required the removal of part of his bowel due to a cancerous mass.
- A form from the referring physician to the surgeon stated that the descending colon was impacted.
- The surgeon took the paperwork from a local clinic to the perioperative area and gave it to the scheduler to schedule a hemicolectomy.
- During a laparoscopic hemicolectomy of the descending colon, no mass was found.
- The surgeon discovered about a month after the procedure that he removed the wrong part of the colon, and the mass was in the ascending colon.
- The patient required surgery to the ascending colon and was left with minimal bowel.

### Allegations

The surgeon failed to meet the standard of care resulting in the removal of the wrong portion of the colon as well as failed to read, review, and verify the location of the Plaintiff's cancer before, during, and after surgery.



### Plaintiff's Viewpoint

The patient alleged medical battery, negligence, incomplete informed consent, and permanent disability. Had the physician looked at all completed test results prior to starting surgery, he would have noted the mass was in the ascending colon, not the descending colon.

### Defense Viewpoint

The surgeon acknowledged he did not verify any information from the referring physician and may not have appreciated the need for an interpreter when discussing the surgery and informed consent. The form had a discrepancy that stated the cancer was in the descending colon and required surgery to the ascending colon. No reconciliation was made regarding the inconsistent information in the records prior to surgery.

### Complicating Factors

The patient exhibited limited English proficiency; however, there was no documentation in the medical record to indicate the use of an interpreter. Without documented use of an interpreter, the patient may not have understood the informed consent process or the surgery that was scheduled. Without an interpreter, the surgeon may not have taken a proper history, conducted an appropriate physical, or documented current medications.

The surgeon noted he did not follow his customary practice of consulting with the gastroenterologist who completed the prior colonoscopy to discuss the location, pathology, and plan for surgery.

### Resolution

The case was settled to include the hospital and surgeon.

## Risk Reduction Strategies

A surgeon is responsible for validating that all information, pathology, previous procedures, discussions with colleagues, and the physical exam of the patient are complete and thorough.

### Scheduling

- Office schedulers verify accuracy of information to book surgery.
- No surgery should be booked with a verbal request; all requests should be in writing.
- Avoid abbreviations, illegible handwriting, or “scribbles” to reduce chance of confusion.
- Confirm special requirements with surgical team (e.g., interpreter, unique patient needs).

### Pre-Op and Holding Area

- Ensure consent, history and physical exam, and booking orders match.
- Follow site-marking policy by using an approved site-marking pen and noting what will be done if the site is unable to be marked or there is only a single site (e.g., alternate bracelet used instead of marking site of incision).
- Confirm site marking cannot be washed off during the OR prep.
- Ensure time out for regional blocks placed prior to going to the operating room.

### Operating Room

- If multiple surgeries are being done, stop and perform a time out between each procedure whether the same or a different surgeon is operating.
- Have a standardized hand-off tool or process to assure correct information exchanges and address specific patient issues.
- The consent is the document of truth about what is being completed in the operating room. Use the consent to verify all identifying information.
- Develop a time out culture where every member of the team stops, listens, and participates in the time out, and restart the time out should this not occur.

### Organizational Culture

- The patient is the center of staff focus. Hold all team members accountable.
- Encourage staff to speak up and stop the line at any time to protect the patient. Every member of the staff has equal right to do so without fear of retribution.
- Ensure policy changes are followed and monitoring continues with any breach. Celebrate the wins, and keep everyone aware of any improvements.

# SURGICAL CLAIMS DATA & INDUSTRY TRENDS

ProAssurance is a contributing member of the Medical Professional Liability Association (MPLA) closed claims data sharing project. As such, the general data listed below includes claims data showing industry trends specific to surgery-related claims from 2012 through 2021. Using this information, our Risk Management department can target specific areas of a surgical practice to deploy risk mitigation strategies and resources.

Data on this page is from the Data Sharing Project Dashboard (2012-2021). MPL closed claims. MPL Association. Retrieved by ProAssurance (August 27, 2024).

**“MPLA data shows surgical claims are more prevalent and more extreme when compared to other specialties.**

**Our internal data shows that when surgeons are able to put proper risk management protocols in place, there are usually fewer claims and the claims are often less severe.”**

**Mallory B. Earley, JD, CPHRM**  
Assistant Vice President,  
Risk Management

## MPL Surgical to All Specialties Comparison

Specialty	Total Closed Claims	Total Paid Claims	Average Indemnity Paid	Total Indemnity Paid
MPL Surgical Specialties*	23,886	7,099	\$370,734	\$2.6 Billion
All Specialties	74,292	19,960	\$351,820	\$7.0 Billion

### Takeaways

- Surgical specialties average indemnity was **5.2%** higher than overall average.
- Surgical specialties made up **37.5%** of overall indemnity paid.
- Surgical specialty claims made up **35.6%** of paid claims.

\*Includes neurological, OB-GYN, cardio/thoracic, general, ortho, plastic, hand, and trauma surgery

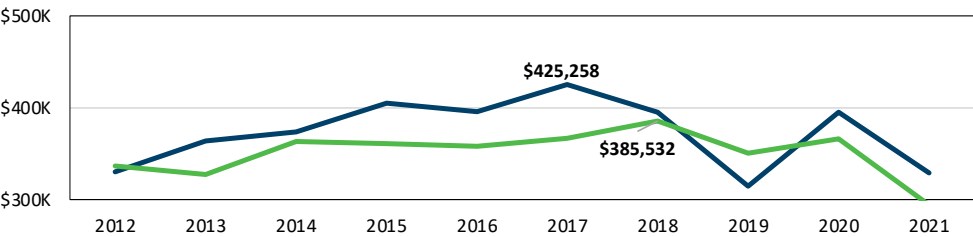
## MPL Surgical Specialty Comparison

Specialty	Total Closed Claims	Total Paid Claims	Average Indemnity Paid	Total Indemnity Paid
Neurological Surgery	1,290	337	\$497,163	\$168 Million
OB-GYN Surgery	6,995	2,284	\$466,855	\$1.1 Billion
Cardiovascular and Thoracic Surgery	1,466	385	\$430,757	\$166 Million
Internal Medicine	7,434	1,694	\$382,882	\$649 Million
General Surgery	5,492	1,650	\$365,098	\$588 Million
Orthopedic Surgery	6,018	1,792	\$287,025	\$514 Million
Plastic Surgery	2,458	614	\$194,778	\$120 Million

### Takeaways

- Of MPL surgical specialties, OB-GYN surgery had the most paid claims from 2012-2021.
- OB-GYN surgery claims ranked first for total indemnity paid among all specialties.
- OB-GYN surgery claims ranked second for closed claims and first for paid claims among all specialties.
- Neurological surgery ranked first for average indemnity paid among all specialties.

## MPL Surgical Severity Trends 2012-2021



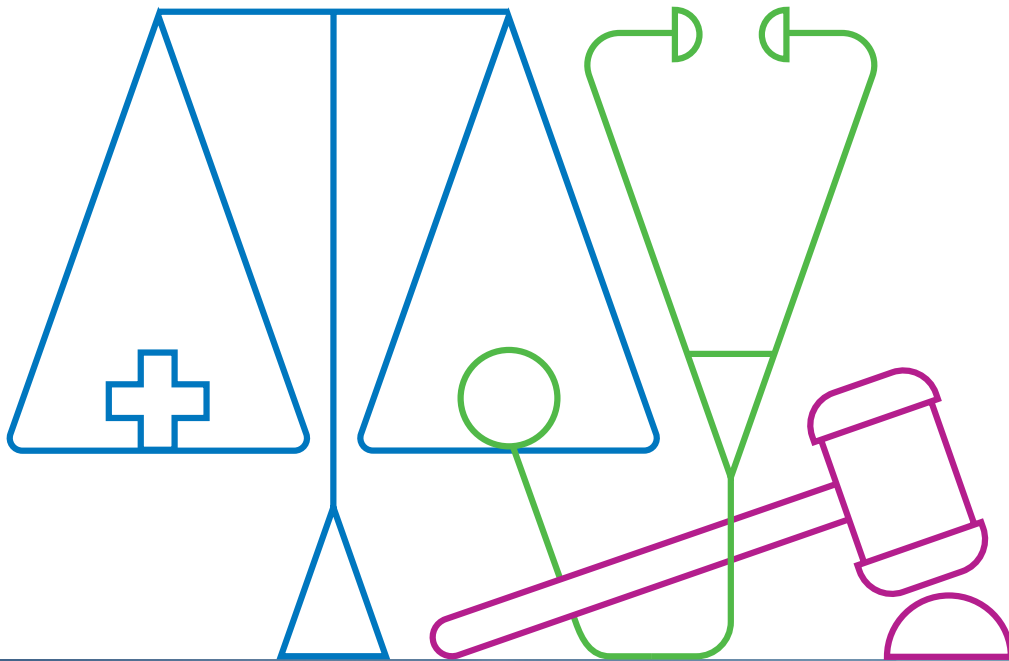
### Takeaways

- Surgical specialties had the highest average indemnity in 2017 with \$425K.
- The highest average indemnity over all specialties was \$386K in 2018.

## MALPRACTICE CLAIMS DEFENSE

Every action we take in your defense is guided by our mission to protect others. Our proudest achievement is the sheer volume of claims we've been able to close without indemnity and without going to trial.

In addition to working for you in and out of the courtroom, we also work tirelessly to be an advocate for medical professionals when it comes to legislation and tort reform that may impact your practice of medicine.



### 5-Year ProAssurance National Claims Summary, 2020-2024\*

**19,900+**

open malpractice claims managed by ProAssurance.

**96.6%**

of closed claims resolved without going to trial.

**77.0%**

of claims closed without indemnity (no money was paid to the plaintiff).

\*These numbers represent medical malpractice claims from 2020 to 2024 extracted from the ProAssurance MPL claims reporting system.

Through the use of tailored risk management services that address the real world application of surgical risks, ProAssurance aims to reduce risk and provide better patient safety outcomes to avoid claims before they become a lawsuit.

***“ProAssurance risk management resources are developed using closed claims data and validated industry data.***

***Our goal is to identify risks and keep our physicians out of the courtroom and in the operating room.”***

**Mallory B. Earley, JD, CPHRM**

Assistant Vice President, Risk Management

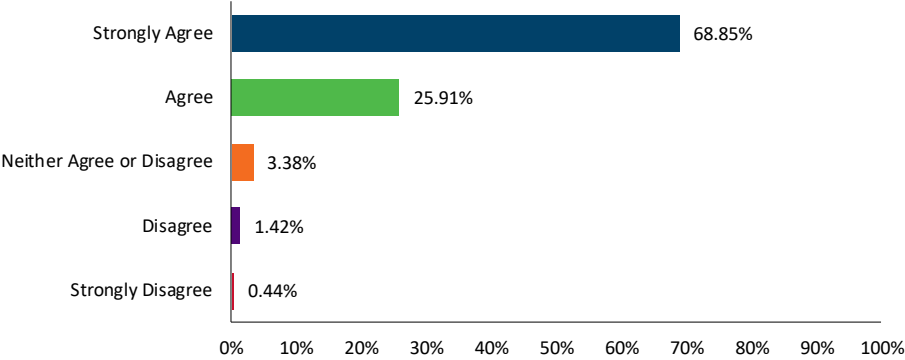


# SURGICAL ANNUAL BASELINE SELF-ASSESSMENT (ABSA) DATA

The ABSA is a brief survey that can be completed by your entire team (physicians included) in a few short minutes. Questions focus on office processes related to medical liability to help us identify gaps in knowledge. Aggregated results are then reviewed so that focused educational opportunities can address the gaps. With a better understanding of what puts a practice at risk, we can improve defensibility in the event of a claim. Below are a few sample questions and results summarized from Q1 and Q2 2024.

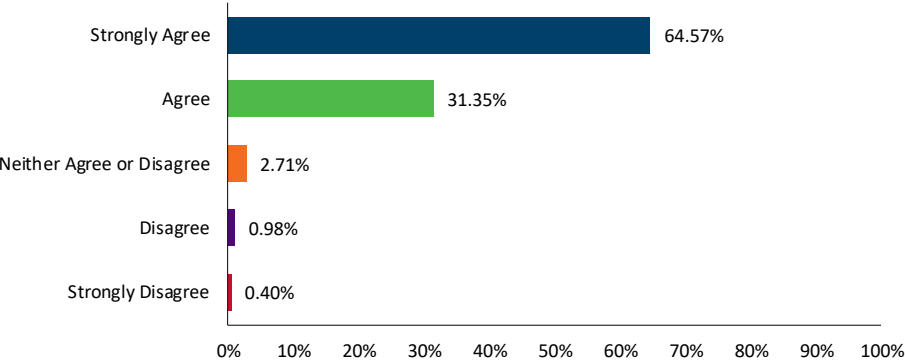
### Sample Question 1

An informed consent document is used for invasive treatments and procedures.



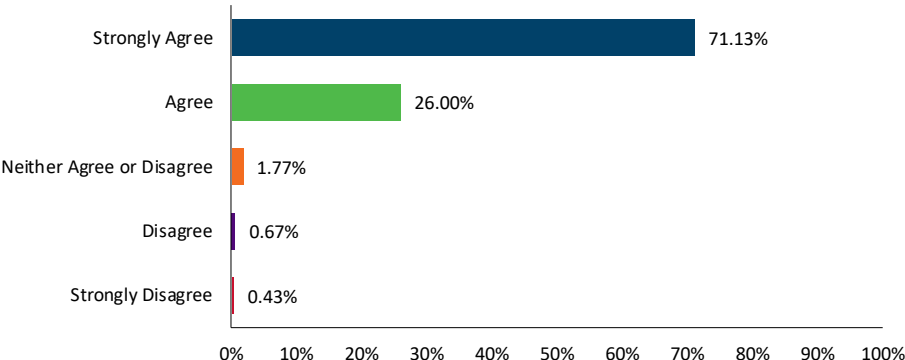
### Sample Question 2

The physician(s)/provider(s) ensure that the information is presented in a way that the patient can understand, which may include providing qualified translators or interpreters for those with limited English proficiency (LEP) or who are hard of hearing.



### Sample Question 3

The physician discusses informed consent for invasive procedures with the patient. The discussion includes an explanation of the procedure, risks, benefits, alternatives, expected outcome, and provides an opportunity for questions and answers.



*Due to rounding, percentages may not add up to 100%.*

Since the 2024 launch of the ABSA,

**3,065**

self-assessments were taken by staff at

**511**

practices to evaluate medical liability risk management knowledge gaps.

*These numbers were extracted from 2024 ProAssurance medical professional liability risk management data.*

The immediate objective of the ABSA is to find and address current gaps within the individual practice, and there will be benchmarking benefits over time. The aggregate data will allow insureds to compare their practice to others based on specialty, location, group size, and more. The annual nature of the program will allow them to see progress over time.

# SURGICAL RISK MANAGEMENT SERVICES



## Annual Baseline Self-Assessment (ABSA)

Insureds who are interested can schedule an assessment at any time. We will ask you for one point of contact for your practice to help facilitate the process. After setup, that contact will get a link to the survey to distribute throughout the practice. The survey takes approximately 10 minutes for each individual to complete. Practices can expect the report within 30 days of survey completion.



To request the ABSA, scan the QR code.

## Risk Management Guidelines

The *Risk Management Guidelines* are a first-stop resource for your risk questions. This can help make it easier for you to meet day-to-day challenges and facilitate implementation of long-range loss prevention strategies. These guidelines are a resource to promote patient safety, minimize risk, and improve defensibility of claims by providing resources to physicians, administrators, and healthcare staff.

Topics cover:

- Incident & Claim Reporting
- Communication
- Disclosure of Adverse Events
- Informed Consent
- Medical Records
- Protected Health Records
- Tracking Systems
- Policy & Procedure Manuals
- Natural Disasters
- Emergency Medical Plans
- Ending the Physician-Patient Relationship
- Contingency Planning
- Office Staff
- Telemedicine



To review the *Risk Management Guidelines*, scan the QR code.

**2,800+**

contacts made with a ProAssurance Risk Management consultant by Helpline or email.

These numbers were extracted from 2024 ProAssurance medical professional liability risk management data.



## Surgical Malpractice Case Studies

By presenting actual case histories of malpractice claims, malpractice case studies are intended to help surgeons recognize some of the common causes of malpractice claims.



For surgery-specific case studies, scan the QR code.

## Surgical Risk Management Education

Risk Management provides quality education for physicians, advanced practice providers, practice managers, and staff through online seminars and live virtual webinars often carrying CME credits. Additional educational resources include risk management guidelines, 2-minute videos, Rapid Risk Review podcast, sample forms, and text-based CME publications. No matter the level of time commitment, ProAssurance has an educational offering to fit everyone.

## Consultation with Risk Management Consultants

The ProAssurance Risk Management department is here to help you promote patient safety, minimize risk, and improve defensibility of claims by providing comprehensive assessment and training resources that are relevant and easy to share.

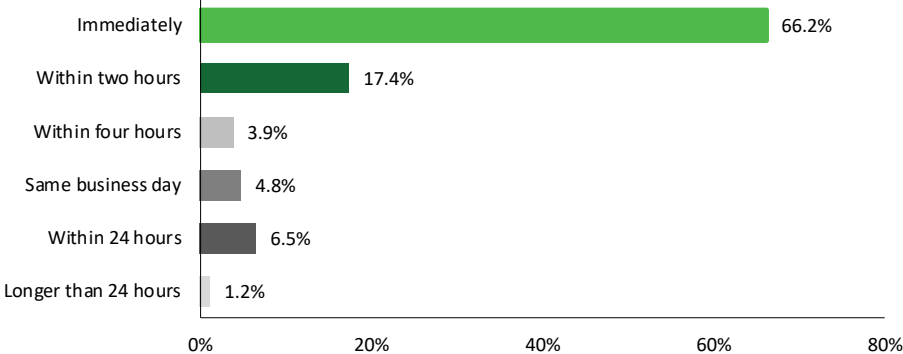
Your physicians, administrators, and healthcare staff have access to a team of risk consultants with a wide range of backgrounds, including prior experience as healthcare administrators, attorneys, nurses, and quality professionals. Risk consultants assist insureds with their liability concerns and questions using specialized knowledge of healthcare risk management issues and the Company's experience defending claims.

**Helpline: 844-223-9648**

**Monday through Friday, 8 a.m. – 5 p.m.**

**Email: [RiskAdvisor@ProAssurance.com](mailto:RiskAdvisor@ProAssurance.com)**

## Helpline Response Time Distribution 2024 Q1 to Q3



## HELPING SURGEONS

- Minimize exposure
- Maximize defensibility
- Practice with confidence

We consider all cases seriously, and if our insured receives notice of a potential claim, we provide experienced malpractice counsel, bringing clarity developed on a national scale to the surgical claims process.



[ProAssurance.com](https://ProAssurance.com)

