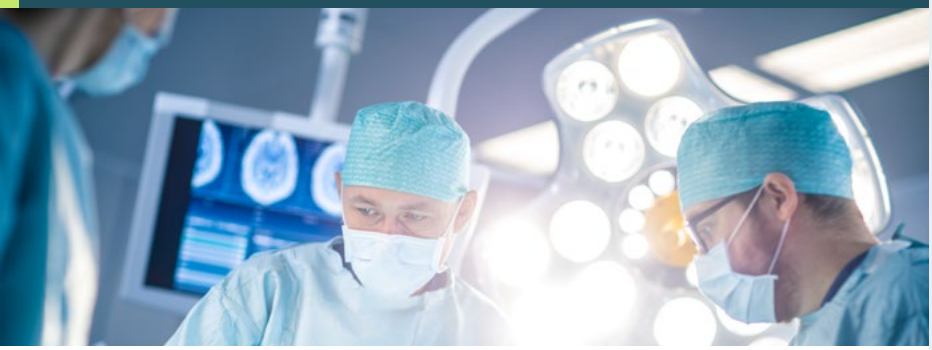
ISSUE 2 | AUGUST

Surgical Malpractice: Fewer Cases, Higher Stakes

Patient Safety Signals

MLMIC Insurance Company
a Berkshire Hathaway company



Surgical malpractice case volume is declining, but the cases that remain are having greater financial implications. Candello data on cases closed from 2020–2025 show that surgical cases are increasingly likely to result in payment and cost substantially more to resolve and defend.

WHY THIS MATTERS?

Case Volume Tells Only Part of the Story

Surgical case volume is declining, but the proportion of cases closing with payment, average indemnity, total indemnity paid, and defense costs have all increased. At the same time, medium-severity cases have declined more than 20% since 2022. Together, these trends show that case volume alone does not capture the changing cost and severity profile of surgical malpractice cases.

WHAT THIS MEANS?

Frequency and Cost Reveal Different Risks

The most common contributing factors are not necessarily the most expensive. Technical performance issues appear most frequently (in 5,052 cases), while patient assessment failures are associated with some of the highest average indemnity payments. Looking at both frequency and financial severity provides a more complete picture of the factors contributing to surgical malpractice exposure.

KEY SURGERY TRENDS

34% → 43%

CASES CLOSING WITH PAYMENT

The proportion of surgical cases closing with an indemnity payment increased by 26%, from 34% in 2020 to 43% in 2025. Fewer cases overall have not translated into lower financial exposure.

$422k → $541k

AVERAGE INDEMNITY PAYMENT

Average indemnity payments rose 28%, increasing from $422,000 to $541,000 per paid surgical case.

↑ 62%

INCREASE IN AVERAGE DEFENSE COSTS

Defense costs have risen even faster than indemnity payments. The average cost to defend a surgical case increased from $66,000 in 2020 to $107,000 in 2025, a 62% increase.

$615k

AVG INDEMNITY FOR ASSESSMENT FAILURES

Failure to appreciate or reconcile relevant signs, symptoms, or test results (in 1,805 surgical cases) had the highest average indemnity among the contributing-factor patterns highlighted, at $615,069.

n=9,198 surgical treatment cases closed between 2020-2025

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