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# Committee Secretary HB 408

EXHIBIT 3  
DATE 2/14/2011  
HB 408  
1 of 11



## MONTANA MEDICAL LEGAL PANEL

**2009 ANNUAL REPORT**

As Of March 12, 2010

**MONTANA MEDICAL MALPRACTICE CLAIMS,  
HEARINGS, LAWSUITS AND JURY TRIALS**

**MONTANA MEDICAL LEGAL PANEL**

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2021 11<sup>th</sup> Avenue, Helena, Montana 59601**

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# MONTANA MEDICAL LEGAL PANEL

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*Note: Because of pending actions some totals are unavailable.*

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# **MONTANA MEDICAL LEGAL PANEL**

<p><b>PROVIDERS IN CLAIMS, HEARINGS, LAWSUITS AND JURY TRIALS</b></p>
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**MONTANA MEDICAL LEGAL PANEL REPORT**

**MONTANA PROVIDERS IN MEDICAL MALPRACTICE CLAIMS, LAWSUITS AND JURY TRIALS**

**MONTANA HEALTH CARE PROVIDERS**

Panel Claim Filing Year	In Claims Filed	In Claims Abandoned, Settled Or Special Ruling Without A Panel Hearing	In Claims With A Hearing	In Claims Abandoned Or Settled After A Hearing Prior To A Lawsuit	In Lawsuits After The Panel	In Claims Abandoned Or Settled After A Lawsuit & Prior To A Trial	In Lawsuits Ending In Summary Judgment Or Dismissal	In Jury Trials	In Trials With Jury Verdicts And Verdict Results	
									In Favor Of Provider	In Favor Of Claimant
1999	239	31	208	69	75	56	1	3	3	0
2000	284	69	215	77	120	113	1	4	4	0
2001	251	40	211	101	101	81	11	4	3	1
2002	272	50	222	96	113	98	6	1	1	0
2003	281	60	221	119	87	77	4	3	2	1
2004	275	79	196	88	98	72	5	2	2	0
2005	288	60	228	104	110	80	2	5	4	1
2006	222	50	172	71	85	53	2	4	2	0
2007	240	71	169	52	91	38	2	1	1	0
2008	194	41	153	38	68	14	1	0	0	0
2009	210	20	96	1	15	1	0	0	0	0
<b>TOTAL</b>	<b>2,756</b>	<b>571</b>	<b>2,091</b>	<b>816</b>	<b>963</b>	<b>683</b>	<b>35</b>	<b>27</b>	<b>22</b>	<b>3</b>
<b>ANNUAL AVERAGE</b>	<b>251</b>	<b>52</b>	<b>190.1</b>	<b>74.2</b>	<b>87.5</b>	<b>62.1</b>	<b>3.2</b>	<b>2.5</b>	<b>2.0</b>	<b>0.3</b>

**Note: Special Ruling involves claims or individual health care providers that are dismissed from MMLP level where no party prevails.**

It takes approximately five years from a starting point until the rate of malpractice claims "mature" or are fully-reported from an incident year given that Montana has a three year "discovery" statute of limitations. *Some actions are still pending.*

Summary – All Providers In Claims Lawsuits And Jury Trials

## MONTANA MEDICAL LEGAL PANEL REPORT

## MONTANA PHYSICIANS IN MEDICAL MALPRACTICE CLAIMS, LAWSUITS AND JURY TRIALS

## MONTANA PHYSICIANS

Panel Claim Filing Year	In Claims Filed	In Claims Abandoned, Settled Or Special Ruling Without A Panel Hearing	In Claims With A Hearing	In Claims Abandoned Or Settled After Hearing Prior To A Lawsuit	In Lawsuits After The Panel	In Claims Abandoned Or Settled After A Lawsuit & Prior To A Trial	In Lawsuits Ending In Summary Judgment Or Dismissal	In Jury Trials	In Trials With Jury Verdicts And Verdict Results	
									In Favor Of Physician	In Favor Of Claimant
1999	155	17	138	52	50	40	0	1	1	0
2000	192	49	143	51	82	76	1	4	4	0
2001	172	28	144	74	65	53	7	3	3	0
2002	177	31	146	66	72	63	4	1	1	0
2003	188	37	151	89	52	46	2	2	2	0
2004	183	48	135	64	65	49	3	1	1	0
2005	193	43	150	72	70	54	2	3	3	0
2006	149	35	114	51	53	35	1	3	2	0
2007	154	43	111	36	57	21	0	1	1	0
2008	122	28	94	28	36	4	1	0	0	0
2009	139	14	58	1	7	0	0	0	0	0
<b>TOTAL</b>	<b>1,824</b>	<b>373</b>	<b>1,384</b>	<b>584</b>	<b>609</b>	<b>441</b>	<b>21</b>	<b>19</b>	<b>18</b>	<b>0</b>
<b>ANNUAL AVERAGE</b>	<b>166</b>	<b>34</b>	<b>125.8</b>	<b>53.1</b>	<b>55.4</b>	<b>40.1</b>	<b>1.9</b>	<b>1.7</b>	<b>1.6</b>	<b>0.0</b>

Note: Special Ruling involves claims or individual health care providers that are dismissed from MMLP level where no party prevails.

It takes approximately five years from a starting point until the rate of malpractice claims "mature" or are fully-reported from an incident year given that Montana has a three year "discovery" statute of limitations. *Some actions are still pending.*

## Summary - Physicians In Claims Lawsuits And Jury Trials

## MONTANA MEDICAL LEGAL PANEL REPORT

## MONTANA HOSPITALS IN MEDICAL MALPRACTICE CLAIMS, LAWSUITS AND JURY TRIALS

## MONTANA HOSPITALS

Panel Claim Filing Year	In Claims Filed	In Claims Abandoned, Settled Or Special Ruling Without A Panel Hearing	In Claims With A Hearing	In Claims Abandoned Or Settled After A Hearing Prior To A Lawsuit	In Lawsuits After The Panel	In Claims Abandoned Or Settled After A Lawsuit & Prior To A Trial	In Lawsuits Ending In Summary Judgment Or Dismissal	In Jury Trials	In Trials With Jury Verdicts And Verdict Results	
									In Favor Of Hospital	In Favor Of Claimant
1999	70	12	58	13	20	13	1	1	1	0
2000	61	16	45	13	25	24	0	0	0	0
2001	56	10	46	17	26	20	4	0	0	0
2002	75	16	59	24	31	27	1	0	0	0
2003	66	18	48	23	21	18	1	1	0	1
2004	78	27	51	21	26	18	1	0	0	0
2005	72	13	59	27	28	17	0	1	0	1
2006	45	11	34	12	21	13	1	1	0	0
2007	66	22	44	13	24	10	2	0	0	0
2008	50	10	40	9	19	7	0	0	0	0
2009	53	4	25	0	3	0	0	0	0	0
<b>TOTAL</b>	<b>692</b>	<b>159</b>	<b>509</b>	<b>172</b>	<b>244</b>	<b>167</b>	<b>11</b>	<b>4</b>	<b>1</b>	<b>2</b>
<b>ANNUAL AVERAGE</b>	<b>63</b>	<b>14</b>	<b>46.3</b>	<b>15.6</b>	<b>22.2</b>	<b>15.2</b>	<b>1.0</b>	<b>0.4</b>	<b>0.1</b>	<b>0.2</b>

Note: Special Ruling involves claims or individual health care providers that are dismissed from MMLP level where no party prevails.

It takes approximately five years from a starting point until the rate of malpractice claims "mature" or are fully-reported from an incident year given that Montana has a three year "discovery" statute of limitations. *Some actions are still pending.*

## Summary – Hospitals In Claims Lawsuits And Jury Trials

## MONTANA MEDICAL LEGAL PANEL REPORT

## MONTANA FACILITIES IN MEDICAL MALPRACTICE CLAIMS, LAWSUITS AND JURY TRIALS

## MONTANA FACILITIES

Panel Claim Filing Year	In Claims Filed	In Claims Abandoned Settled Or Special Ruling Without A Panel Hearing	In Claims With A Hearing	In Claims Abandoned Or Settled After A Hearing Prior To A Lawsuit	In Lawsuits After The Panel	In Claims Abandoned Or Settled After A Lawsuit & Prior To A Trial	In Lawsuits Ending In Summary Judgment Or Dismissal	In Jury Trials	In Trials With Jury Verdicts And Verdict Results	
									In Favor Of Facility	In Favor Of Claimant
1999	9	2	7	1	4	3	0	0	0	0
2000	19	1	18	5	12	12	0	0	0	0
2001	12	1	11	4	6	5	0	1	0	1
2002	6	1	5	2	3	2	1	0	0	0
2003	10	1	9	2	6	6	0	0	0	0
2004	10	3	7	1	6	5	1	0	0	0
2005	8	2	6	2	3	1	0	1	1	0
2006	13	2	11	3	7	4	0	0	0	0
2007	14	3	11	2	8	6	0	0	0	0
2008	11	0	11	0	9	2	0	0	0	0
2009	9	0	6	0	3	1	0	0	0	0
TOTAL	121	16	102	22	67	47	2	2	1	1
ANNUAL AVERAGE	11	1	9.3	2.0	6.1	4.3	0.2	0.2	0.1	0.1

Note: Special Ruling involves claims or individual health care providers that are dismissed from MMLP level where no party prevails.

It takes approximately five years from a starting point until the rate of malpractice claims "mature" or are fully-reported from an incident year given that Montana has a three year "discovery" statute of limitations. *Some actions are still pending.*

## Summary – Facilities In Claims Lawsuits And Jury Trials

## MONTANA MEDICAL LEGAL PANEL REPORT

## MONTANA DENTISTS IN MEDICAL MALPRACTICE CLAIMS, LAWSUITS AND JURY TRIALS

## MONTANA DENTISTS

Panel Claim Filing Year	In Claims Filed	In Claims Abandoned, Settled Or Special Ruling Without A Panel Hearing	In Claims With A Hearing	In Claims Abandoned Or Settled After A Hearing Prior To A Lawsuit	In Lawsuits After The Panel	In Claims Abandoned Or Settled After A Lawsuit & Prior To A Trial	In Lawsuits Ending In Summary Judgment Or Dismissal	In Jury Trials	In Trials With Jury Verdicts And Verdict Results	
									In Favor Of Dentist	In Favor Of Claimant
1999	3	0	3	1	1	0	0	1	1	0
2000	9	3	6	5	1	1	0	0	0	0
2001	8	0	8	5	3	2	0	0	0	0
2002	8	1	7	2	4	3	0	0	0	0
2003	15	4	11	4	7	6	1	0	0	0
2004	3	1	2	2	0	0	0	0	0	0
2005	8	1	7	2	4	4	0	0	0	0
2006	13	1	12	5	2	1	0	0	0	0
2007	4	2	2	1	1	1	0	0	0	0
2008	10	3	7	1	4	1	0	0	0	0
2009	5	2	3	0	2	0	0	0	0	0
<b>TOTAL</b>	<b>86</b>	<b>18</b>	<b>68</b>	<b>28</b>	<b>29</b>	<b>19</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>ANNUAL AVERAGE</b>	<b>8</b>	<b>2</b>	<b>6.2</b>	<b>2.5</b>	<b>2.6</b>	<b>1.7</b>	<b>0.1</b>	<b>0.1</b>	<b>0.1</b>	<b>0.0</b>

Note: Special Ruling involves claims or individual health care providers that are dismissed from MMLP level where no party prevails.

It takes approximately five years from a starting point until the rate of malpractice claims "mature" or are fully-reported from an incident year given that Montana has a three year "discovery" statute of limitations. *Some actions are still pending.*

## Summary - Dentists In Claims Lawsuits And Jury Trials

## MONTANA MEDICAL LEGAL PANEL REPORT

## MONTANA PODIATRISTS IN MEDICAL MALPRACTICE CLAIMS, LAWSUITS AND JURY TRIALS

## MONTANA PODIATRISTS

Panel Claim Filing Year	In Claims Filed	In Claims Abandoned, Settled Or Special Ruling Without A Panel Hearing	In Claims With A Hearing	In Claims Abandoned Or Settled After A Hearing Prior To A Lawsuit	In Lawsuits After The Panel	In Claims Abandoned Or Settled After A Lawsuit & Prior To A Trial	In Lawsuits Ending In Summary Judgment Or Dismissal	In Jury Trials	In Trials With Jury Verdicts And Verdict Results	
									In Favor Of Podiatrist	In Favor Of Claimant
1999	1	0	1	1	0	0	0	0	0	0
2000	2	0	2	2	0	0	0	0	0	0
2001	3	1	2	1	1	1	0	0	0	0
2002	6	1	5	2	3	3	0	0	0	0
2003	2	0	2	1	1	1	0	0	0	0
2004	1	0	1	0	1	0	0	1	1	0
2005	7	1	6	1	5	4	0	0	0	0
2006	2	1	1	0	2	0	0	0	0	0
2007	2	1	1	0	1	0	0	0	0	0
2008	1	0	1	0	0	0	0	0	0	0
2009	4	0	4	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>31</b>	<b>5</b>	<b>26</b>	<b>8</b>	<b>14</b>	<b>9</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>
<b>ANNUAL AVERAGE</b>	<b>3</b>	<b>0</b>	<b>2.4</b>	<b>0.7</b>	<b>1.3</b>	<b>0.8</b>	<b>0.0</b>	<b>0.1</b>	<b>0.1</b>	<b>0.0</b>

Note: Special Ruling involves claims or individual health care providers that are dismissed from MMLP level where no party prevails.

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## Summary – Podiatrists In Claims Lawsuits And Jury Trials



## **MONTANA MEDICAL LEGAL PANEL**

**NUMBER & RATE OF MEDICAL MALPRACTICE CLAIMS FILED  
AT THE PANEL – CLAIM BASIS WITHOUT REGARD TO NUMBER  
OR TYPE OF PROVIDERS IN CLAIMS**

## MONTANA MEDICAL LEGAL PANEL

## NUMBER AND RATE OF FILED MEDICAL MALPRACTICE CLAIMS

## ANNUAL DATA

Panel Claim Filing Year	Number Of Claims Filed At The Panel	Number Health Care Providers	Number Of Claims As A Percentage Of Montana Health Care Providers
1980	31	1,219	2.5%
1981	37	1,276	2.9%
1982	78	1,250	6.2%
1983	91	1,316	6.9%
1984	104	1,260	8.3%
1985	80	1,266	6.3%
1986	124	1,226	10.1%
1987	97	1,226	7.9%
1988	101	1,795	5.6%
1989	110	1,806	6.1%
1990	102	1,808	5.6%
1991	85	1,765	4.8%
1992	101	1,947	5.2%
1993	121	1,983	6.1%
1994	121	2,073	5.8%
1995	150	2,122	7.1%
1996	139	2,143	6.5%
1997	143	2,148	6.7%
1998	146	2,189	6.7%
1999	149	2,230	6.7%
2000	145	2,272	6.4%
2001	139	2,416	5.8%
2002	149	2,414	6.2%
2003	170	2,547	6.7%
2004	153	2,558	6.0%
2005	175	2,623	6.7%
2006	130	2,618	5.0%
2007	136	2,738	5.0%
2008	110	2,783	4.0%
2009	122	2,905	4.2%
<b>Total</b>	<b>3,539</b>		

Claims filed in the early years of the Panel were only as to those claims where the date of incident was on or after April 17, 1977, hence a period of approximately six years was required – until 1982 – before the “true” rate of Claims could be observed.