

Indiana Department of Insurance

Medical Malpractice

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The Medical Malpractice division oversees the qualification of health care providers in the Patient's Compensation Fund under Indiana's Medical Malpractice Act. This includes collecting surcharges, maintaining files of medical malpractice actions and records of qualified providers, and receiving proposed complaints. The Department cannot provide legal advice to parties involved, therefore it is up to each party to advance or defend its own claim.

Contact Us

For information or assistance with Medical Malpractice issues please contact:

Carol Sullivan
Claims Processor
317-232-5065
csullivan@idoi.in.gov

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Filing Procedure for a Medical Malpractice Complaint

The Medical Malpractice division follows strict procedures when complaints are filed against physicians. The Medical Malpractice Act is the cornerstone of our procedures.

[View the complete Medical Malpractice Act](#)

Filing a Complaint

A copy of the proposed complaint must be filed with the Department of Insurance (Commissioner). A proposed complaint is filed when a copy is delivered or mailed by registered or certified mail to the Department with the required filing and processing fees. If an insufficient filing fee is submitted, the proposed/amended complaint will not be considered filed until the date the appropriate fees are received.

A filing fee of \$5 for the first defendant and \$2 for each additional defendant must accompany all proposed complaints and amended proposed complaints.

- Please make check or money order payable to IDOI.

We ask that the plaintiff, at the time of filing the proposed complaint, provide the Commissioner with sufficient copies of the complaint, an original plus three (3) copies per each defendant named.

- Provide a self-addressed, stamped envelope back to the person or the law firm filing the proposed/amended complaint for the return of copies.
- Do not send medical records with your complaint. Medical records received by the Department will be returned or destroyed.
- Provide an email address where we can send notifications with regards to the qualification status of the defendants.
- Mail check and complaint to **Indiana Department of Insurance, 311 W. Washington Street, Suite 300, Indianapolis, IN 46204-2787.**

[View a Sample Complaint Form](#)

Statute of Limitations

- No claim may be brought unless filed within two years from the date of the alleged malpractice except that a minor under the age of six has until his eight birthday to file. Some exceptions exist.
- Filing of a proposed complaint tolls the applicable statute of limitations to and including a period of 90 days following receipt of the opinion of the medical review panel by the claimant.

Comments as to Specifics of Proposed Complaint

- Full names, middle initials and suffixes of defendants must be in the defendant captions.
- The date of the alleged occurrence of malpractice should always be set forth in the complaint to allow the Commissioner to determine if the defendant was qualified under the Act for the occurrence alleged. County of venue should also be designated in the proposed complaint.
- Only those health care providers who have qualified under the provisions of the act are protected by its provisions.
- Provide addresses for the defendants via cover letter to help the PCF determine the correct provider if multiples are listed in our records.

Commissioner Serves Defendant with Notice

The Commissioner forwards a copy of the proposed complaint to:

- Each health care provider named as a defendant.
- Each defendant's insurer(s), if known.

A filed-stamped copy of the proposed complaint, along with determination of qualification letter will be sent if a self-addressed stamped envelope is provided for return back to the person or law firm filing the proposed/amended complaint. IDOI will no longer provide copies of the cover letters sent to the defendant(s) and insurer(s) as these documents may be obtained from the PCF database at the link that will be provided in the determination of qualification letter.

Requesting Formation of a Medical Review Panel

Not earlier than 20 days after the filing of a proposed complaint, either party may request the formation of a medical review panel by serving a request by registered or certified mail upon all parties and the Commissioner. Filing a proposed complaint does not automatically result in a panel being formed. The IDOI has no involvement in the selection process of the panel. Please refer to the section Selecting the Panel as to how that process is completed.

No panel will be formed if neither party requests one.

If a panel is formed, the party who "wins" MUST pay the panel's fees. The average cost of a panel is approximately \$3,000.

Selecting the Panel

A. Composition of the Panel

The panel consists of one attorney and three health care providers. The attorney acts as chair of the panel and in an advisory capacity but has no vote.

B. Selection of the Panel Chair

Within 15 days after the request to form a panel is filed, the parties select a panel chair by agreement. If no agreement can be reached, either party may request that the Clerk of the Supreme Court draw at random a list of five names of attorneys. These attorneys are qualified to practice presently on the rolls of the Supreme Court and maintain offices in the county of venue designated in the proposed complaint or in a contiguous county. However, the Commissioner recommends that the parties agree upon a panel chair knowledgeable about the Act and experienced as a panel chair.

A request to the Clerk costs \$25. On your request to the clerk, please include names, addresses, and parties represented by the attorneys of record, and provide a complete caption of the case. The Clerk will notify the remaining attorney and all parties that the remaining

attorney has been selected as chair.

C. Selection of Health Care Providers

Within 15 days after the chair is selected, both parties select a health care provider and notify the other party and the chair of their selection. If a party fails to make a selection within the time provided, the chair makes the selection and notifies both parties.

Within 15 days after their selection, the two health care provider members select the third member and notify the chair and the parties. If they fail to make a selection, the chair shall make the selection and notify the parties.

D. Challenge to Selection of Panel Member

Within ten days after any selection, written challenge without cause may be made to the panel member. Upon challenge or excuse the party whose appointee was challenged or dismissed selects another panelist.

If the challenged or dismissed panel member was selected by the other two panel members, they make a new selection.

E. Notification of Completion of Panel Selection

When all members of the panel have been selected, the chair within five days will notify the Commissioner and the parties by registered or certified mail of the Panel members' names and addresses and the date on which the last member was selected.

Form of Evidence Submitted to the Panel

The Act provides for submission of evidence to the panel in written form only. The evidence may consist of:

- Medical Charts
- X-Rays
- Lab Tests
- Excerpts of Treatises
- Depositions of Witnesses Including Parties
- Any other form of evidence allowable by the panel.

Evidence should be presented to the panel ONLY.

DO NOT send evidence to the Department.

Right to Convene the Panel

After you have submitted all evidence to the panel, either party has the right to ask the panel to convene at a time and place agreeable to the panel.

When the panel meets, either party may question the members regarding matters relevant to the issues to be decided by the panel. The chair presides at the meeting, and the meeting is to be informal.

Panel Opinion-Time Limit and Reporting

The panel renders an opinion as to whether the evidence supports the conclusion that the defendant(s) acted or failed to act within the appropriate standard of care.

The panel should render its expert opinion within 180 days of selection of the last member. The opinion should be in writing and signed by the members.

Compensation and Fees of Panel Members

Each health care provider member of the panel is paid up to \$350, plus reasonable travel expenses.

The chair is paid \$250 dollars per diem, not to exceed \$2000 dollars, plus reasonable travel expenses.

The fees and expenses of the panel are paid by the side in whose favor the panel's majority opinion is written. If there is no majority opinion, each side pays 50% of the fees and expenses.

Reporting of Settled or Adjudicated Claims

All malpractice claims settled or adjudicated to final judgment against a health care provider should be reported to the Commissioner by the plaintiff's attorney and by the health care provider or his insurer or risk manager within 60 days following final disposition. The report should state:

- a) Nature of the claim;
- b) Damages asserted and alleged injury;
- c) Attorney fees and expenses; and
- d) The amount of any settlement or judgment.

PCF Reporting Forms

The Commissioner urges parties to immediately report claims considered closed or disposed of by the parties for any other reason (dismissed, withdrawn, dropped, etc), so that the Department's file can be closed and accurately reflect the claim status.

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Physician Records

Patient's Compensation Fund Database

The Patient's Compensation Fund ("PCF") database is a listing of physicians participating in the PCF and recorded information regarding medical malpractice suits. The list illustrates the name and location of the doctor, the type of practice, the number of medical malpractice claims filed against them and their participation with panels. You can search the database in various ways, including by the health care provider's name.

[Access the database and look up physicians.](#)

Qualification Status of Health Care Providers

Individuals may determine the qualification status of a health care provider by accessing the PCF database at the above link and viewing health care provider's policy information. Any questions or concerns regarding procedures can be directed to the manager of the Medical Malpractice Division, Nancy Wilkins, at (317) 232-2401.

PCF Annual Statistics Report

The PCF Annual Report provides a cumulative overview of the PCF dating back to 1975.

[View the PCF Annual Report](#)

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Lawyer Referral Site

For several reasons, IDOI cannot provide legal advice. However we can guide you to resources that answer your questions. The Lawyer Referral Site is sponsored by the Indianapolis Bar Association and provides attorney information. The self-service legal center is maintained by the Supreme Court of Indiana.

[Get Legal Advice](#)

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