

# Claims Related to Wrong-Site Surgery

Claims related to wrong-site surgery are legal cases where a patient has suffered harm due to a surgical procedure being performed on the wrong part of their body. These claims typically fall under the umbrella of medical malpractice.

When a patient experiences harm as a result of a wrong-site surgery, they or their family may file a lawsuit against the healthcare provider or facility responsible for the procedure. The claim will typically seek compensation for damages such as pain and suffering, medical expenses, lost wages, and other related costs.

To establish a successful claim related to wrong-site surgery, the patient or their attorney must prove several elements, including:

The existence of a doctor-patient relationship  
That the healthcare provider or facility owed the patient a duty of care  
That the healthcare provider or facility breached that duty of care by performing the wrong-site surgery  
That the patient suffered harm as a direct result of the breach of duty  
Proving these elements can be complex and may require expert testimony from medical professionals. Additionally, medical malpractice cases often have strict filing deadlines and requirements, so it is essential to consult an experienced attorney as soon as possible if you believe you or a loved one has been the victim of a wrong-site surgery.

Healthcare providers can reduce the likelihood of wrong-site surgery by implementing various protocols, such as verifying the surgical site with the patient and surgical team before the procedure begins and marking the surgical site clearly and unmistakably. By taking these and other preventive measures, healthcare providers can improve patient safety and reduce the risk of medical malpractice claims related to wrong-site surgery.

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Wrong-site surgeries are considered “never events” and continue to occur despite the implementation of the Universal Protocol by The Joint Commission in 2003.

Ta et al. reviewed closed [claims](#) data on [wrong-site surgery](#) between 2013 and 2020 from a medical [malpractice](#) company. The claims were classified by allegations made by claimants, the responsible services, the types of procedures, the injuries, and contributing factors. Researchers performed a descriptive analysis of the available variables and reviewed the clinical summary of each case.

Between 2013 and 2020, there were 68 wrong-site closed claims cases. The mean age of the patients was 55.7 (standard deviation 16.21) years, and 51.5% were female. The services most frequently responsible for these were Orthopedic (35.3%), Neurosurgery (22.1%), and Urology (8.8%). The most common types of procedures were spine and intervertebral disc surgery (22.1%), arthroscopy (14.7%), and surgery on muscles/tendons (11.8%). The severity of claims was higher in the [inpatient](#) setting compared to the [ambulatory](#) setting. The most common alleged injuries included the need for additional surgery (45.6%), [pain](#) (33.8%), mobility dysfunction (10.3%), worsened injury (8.8%), [death](#) (7.4%), and total loss (7.4%). The top contributing factors to wrong-site surgery were failure to follow [policy/protocol](#) (83.8%) and failure to [review](#) the [medical records](#) (41.2%). The mean closed claim value was \$136,452.84, and 60.3% of cases were settled.

The risk of wrong-site surgeries is increased with spine surgeries, likely due to unique technical

challenges. Further research is required to identify effective methods of prevention of these events <sup>1)</sup>

<sup>1)</sup>

Tan J, Ross JM, Wright D, Pimentel MPT, Urman RD. A Contemporary Analysis of Closed Claims Related to Wrong-Site Surgery. Jt Comm J Qual Patient Saf. 2023 Feb 11:S1553-7250(23)00053-3. doi: 10.1016/j.jcjq.2023.02.002. Epub ahead of print. PMID: 36925434.

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