



Minet is a trusted Pan-African advisor dedicated to addressing the uncertainties of tomorrow by delivering comprehensive risk and human capital solutions today. As the largest Aon Global Network Correspondent, Minet benefits from access to a global network of over 50,000 colleagues across 120 countries, along with proprietary data, research, and analytics. This unique combination enables us to anticipate and manage risks effectively, providing our clients with a distinct and unrivaled advantage. For more information, visit www.minet.com, or connect with us on our social media channels:



HOSPITAL MALPRACTICE COVER: A FINANCIAL SHIELD, NOT JUST A LICENSE REQUIREMENT

April 7th, 2026



Your license keeps your doors open, but your hospital malpractice insurance cover keeps them from closing when the unexpected event happens.

Across healthcare systems in Kenya, all hospitals are required to procure hospital malpractice (professional indemnity) insurance cover from a licensed insurance company of their choice to meet licensing or accreditation standards.

For many, this becomes an annual check-box exercise to satisfy regulators, rather than a strategic financial protection measure. Yet, hospital malpractice insurance is not a complex process. It should be recognized as a financial shield and business reputational safeguard against unpredictable, often devastating professional legal claims. When a claim strikes, it's not the regulator who helps. It's your insurance policy, your insurer, and your preparedness.

What hospital malpractice insurance covers

Hospital malpractice insurance protects institutions against financial loss arising from professional negligence by their medical and allied staff. It typically covers compensation awarded to patients or families, legal defence and court costs, settlements or out-of-court agreements, and vicarious liability*¹ for staff and visiting practitioners. Rather, to put it simply, it provides protection for both the expenses of legal defence and any compensation arising from proven liability. Even hospitals with excellent care standards face claims because malpractice isn't only about mistakes, it's also about perception and documentation.

When it comes to medical negligence, healthcare providers are not immune to liability. The legal framework that holds healthcare providers accountable is diverse, rooted in principles such as vicarious liability and corporate negligence. This means that an employer, in this case, the hospital, can be held responsible for the actions of its employees if those actions occur within the scope of employment. Corporate negligence, however, broadens the hospital's accountability to encompass



the overall environment it provides and the systems it operates. In this context, a hospital may be held liable for failing to maintain sufficient staffing, effective policies, or safety measures necessary to protect patients from harm. Things like diagnostic errors, communication breakdowns, misinterpretation of medical results, poor post-operative communication, faulty documentation, or missing consent forms can cause injury or harm to the patient, leading to a liability claim, which the patient, in most cases, wins in court.

The mindset gap between Compliance and Protection

Most healthcare providers purchase hospital malpractice cover through their administrative personnel - such as administrators, or accountants- primarily to meet licensing or accreditation requirements, rather than to assess the actual risks arising from day-to-day operations. They extend the use of the same policy to seek insurance empanelment to allow access by those with private health insurance covers or corporates who contract for a funded model to have their staff access healthcare services in that specific hospital.

This means that as the facility attracts more patients, the likelihood of negligence-related claims increases. Some of the common compliance-only mistakes include but are not limited to having an inadequate sum insured or policy limit of indemnity, failing to evaluate deductibles/excess, changing insurers without preserving the retroactive date, neglecting to consider the kind of professional services offered (such as specialty services or education levels), overlooking location demographics, and failing to review policy exclusions. When a major incident occurs, the hospital often discovers too late that its "license policy" doesn't pay out — because it was never designed for protection, only for compliance paperwork.

We can conclude and note that a practicing license certificate can open your hospital's doors, but only a strong malpractice insurance policy can keep them open.

The real cost of claims

Globally, medical legal claims have markedly increased, driven largely by technological advancements that raised public awareness and empowered patients with knowledge of their rights in case of hospital negligence.

In June 2025, the Kenyan court awarded patient damages of over 157 million Kenya shillings due to a breach of duty of care and acts of negligence by doctors at a leading private hospital in Kenya. A patient underwent two surgical procedures for pelvic endometriosis under the care of a gynaecologist, at the Hospital. In the first procedure, the patient alleged that she consented only to the removal of the uterus and ovaries, but the doctor removed her cervix and used an alternative surgical method, without her informed consent. In the second procedure, complications arose that led to a vesico-vaginal fistula (abnormal bladder leakage), significantly impacting her health, dignity, and ability to work. A urologist was later brought in but failed to detect the fistula. The diagnostic assessment and corrective procedure were ultimately undertaken in South Africa. The patient sued the doctors and the hospital for negligence and breach of contract.

Even when exonerated, hospitals spend a lot of funds on legal defense, risking the loss of trust from patients and suffering media damage.



I now pose a question to every healthcare provider, in view of the size of your hospital, number of beds, special operations conducted, experience of the consultants, number of medical and non-medical staff, condition of your medical equipment, etc., is your current hospital malpractice insurance policy sustainable enough to take care of any medical legal claim that may arise?

From formality to strategy: using malpractice insurance cover as a risk tool

When treated as part of enterprise risk management, malpractice insurance becomes a strategic asset as it supports:

- a) Financial Stability: Absorbs compensation and legal costs.
- b) Operational Continuity: Keeps services running during litigation.
- c) Reputation Protection: Insurers often provide public relations and crisis support.
- d) Staff Confidence: Professionals perform better knowing the hospital has their back.
- e) Regulatory Credibility: Demonstrates a genuine safety and accountability culture.

Building a culture of protection

To move beyond compliance, hospitals should embed malpractice coverage into their governance and safety systems, by considering the following:

1. Insurance Partner – Include an insurance partner, preferably a professional broker, who will assist you in insurance management and advisory, analysis and evaluation of existing insurance programs, presenting your risk adequately to the insurance market and negotiate better terms with the insurance carrier, claims management and servicing, and insurance cost reduction and control.
2. Leadership Engagement - Senior management must understand the policy terms, not just the policy premium.
3. Comprehensive Risk Assessment – Regularly audit services, departments, and new technologies.
4. Policy Benchmarking - Compare limits and terms with peer hospitals.
5. Incident Reporting Systems - Early reporting helps insurers manage potential claims proactively.

The long view: sustainable risk financing

Healthcare providers that approach insurance strategically will realize long-term benefits, including but not limited to, fewer and better-managed claims, improved documentation and clinical governance, stable or reduced premiums over time, and a stronger reputation among patients and regulators. In other words, when you treat insurance as a partnership, instead of a purchase, your hospital becomes stronger, instead of merely compliant.

Malpractice insurance cover is not a bureaucratic burden — it's the institution's financial backbone and moral responsibility. Buying it merely for licensing can be compared to wearing a seatbelt only to pass the traffic police, not to save your life.

In a world where one medical error or misunderstood event can end a hospital's reputation overnight, true protection is priceless. A license allows you to operate, malpractice insurance allows you to endure. When the next claim arises, the right question won't be, "Do we have an insurance certificate?" but rather "Do we have real protection"?