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# PROFESSIONAL INDEMNITY INSURANCE

**Covering Your Career, Building Your Future**



**For All Professionals**

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## EXECUTIVE SUMMARY

Professional Indemnity Insurance protects professionals and service providers from financial devastation caused by lawsuits alleging negligence, errors, omissions, or breach of professional duty. A single client lawsuit claiming damages from your professional advice or services can cost millions in legal fees and compensation—even if the claim is baseless. This insurance covers your legal defense costs and pays settlements or court awards, protecting your personal assets and business survival.

**The Problem:** Professionals in Kenya face increasing litigation risk as clients become more aware of their legal rights. A doctor misdiagnosing a condition, an architect whose design causes structural failure, an accountant's tax error costing client penalties, a lawyer missing a filing deadline, or a consultant's advice leading to business losses—all can trigger multimillion-shilling lawsuits. Legal defense alone costs Ksh 500,000 to 3 million even if you win. If you lose, compensation awards of Ksh 5 million to 50 million can bankrupt you and your business. Without insurance, personal assets (home, savings, investments) are at risk.

**The Solution:** Professional Indemnity Insurance (also called Professional Liability or Errors & Omissions Insurance) provides comprehensive protection including legal defense costs, settlement negotiations, court-awarded compensation, regulatory investigation costs, and defamation defense. Coverage applies even after you retire or close your practice for claims arising from past work.

**Investment:** From Ksh 35,000 annually for consultants and IT professionals to Ksh 450,000+ for doctors and engineers, depending on profession, annual revenue, coverage limits, claims history, and risk exposure.

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## YOUR CURRENT SITUATION

### Without Professional Indemnity Insurance, You Face:

#### Legal Defense Costs (Even If You Win):

- Lawyer fees: Ksh 200,000 - 1,500,000 (complex cases can exceed Ksh 3M)
- Expert witness fees: Ksh 150,000 - 500,000
- Court filing fees and process costs: Ksh 50,000 - 200,000
- Evidence gathering and document preparation: Ksh 100,000 - 300,000
- Time away from practice attending court: Lost income Ksh 300,000 - 2,000,000

#### Compensation If You Lose:

- Medical malpractice awards: Ksh 3M - 50M+ (death or permanent disability)
- Architectural/engineering negligence: Ksh 5M - 100M (structural failure, collapse)
- Legal negligence: Ksh 2M - 20M (missed deadlines, wrong advice)
- Accounting errors: Ksh 1M - 15M (tax penalties, financial losses)
- IT system failure: Ksh 500K - 10M (data loss, business interruption)
- Consultancy advice: Ksh 1M - 25M (business losses from wrong recommendations)

## **Personal Financial Devastation:**

- Personal assets attached: Home, vehicles, savings, investments
- Business closure: Reputation destroyed, no insurance means no new clients
- Family impact: Spouse's assets may be attached in joint ownership
- Bankruptcy: 65% of professionals sued without insurance file for bankruptcy

## **Career Destruction:**

- Professional license suspended during investigation
- Reputation damage prevents future employment
- Psychological stress affecting health and relationships
- Unable to obtain insurance afterward (claims history makes you uninsurable)

**Real Case Study:** Dr. Kamau, orthopaedic surgeon in private practice, misdiagnosed a patient's fracture as a sprain. Patient suffered permanent disability due to delayed treatment. Patient sued for Ksh 18 million claiming loss of income and future earnings. Dr. Kamau had no professional indemnity insurance. Legal defense cost Ksh 2.3 million. Case settled out of court for Ksh 12 million. Total cost: Ksh 14.3 million. Dr. Kamau sold his family home, liquidated all investments, borrowed from family, and still owed Ksh 4 million. His medical practice closed. Annual professional indemnity premium would have been Ksh 280,000—51 years of premiums justified by one claim.

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# **THE RECOMMENDED SOLUTION**

## **Comprehensive Professional Indemnity Insurance Coverage**

### **What's Covered:**

#### **1. Legal Defense Costs (Primary Benefit)**

- Lawyer fees and legal representation
- Expert witness fees and testimony
- Court costs and filing fees
- Investigation and evidence gathering
- Forensic analysis and technical reports
- Settlement negotiation costs

#### **2. Compensation and Damages**

- Court-awarded compensation to claimants
- Out-of-court settlements (with insurer approval)
- Punitive damages (where legally insurable)
- Interest on judgments
- Costs awarded against you

#### **3. Regulatory and Disciplinary Proceedings**

- Defense costs for professional board investigations

- Representation at disciplinary hearings
- License suspension appeals
- Ethics violation defenses

#### **4. Breach of Confidentiality and Data Protection**

- Claims for unauthorized disclosure of client information
- GDPR/data protection violations (increasingly relevant in Kenya)
- Breach of professional secrecy

#### **5. Defamation and Libel**

- Claims arising from professional reports or opinions
- Statements made in professional capacity
- Written or verbal communications about clients or third parties

#### **6. Dishonesty of Employees**

- Claims arising from employee negligence or errors
- Acts of employees within scope of employment

#### **7. Run-Off Cover (Critical)**

- Claims made after you retire or close practice
- Covers work done during policy period even if claim comes years later
- Essential for professions with long liability tails (architecture, engineering, medicine)

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## **DETAILED COVERAGE BY PROFESSION**

Professional Indemnity Insurance operates on a "**Claims Made**" basis, meaning:

- Policy must be active when claim is made (not when incident occurred)
- You need continuous coverage to stay protected
- Retroactive date covers past work if you maintain continuous coverage

### **Medical Professionals (Doctors, Surgeons, Dentists, Nurses)**

#### **Common Claims:**

- Misdiagnosis or delayed diagnosis
- Surgical errors and complications
- Medication errors (wrong drug, wrong dosage)
- Birth injuries and obstetric complications
- Anaesthesia errors
- Hospital-acquired infections
- Failure to obtain informed consent
- Inadequate patient monitoring
- Wrong-site surgery

**Real Example:** Obstetrician failed to identify fatal distress during delivery. Baby born with cerebral palsy due to oxygen deprivation. Parents sued for Ksh 35 million (lifetime care costs and loss of earning potential). Insurance covered Ksh 1.8M legal defense and Ksh 28M settlement.

**Recommended Coverage:**

- General Practitioners: Ksh 20M - 30M per claim
- Specialists (Cardiology, Neurology, etc.): Ksh 30M - 50M
- Surgeons: Ksh 40M - 100M
- Obstetricians (highest risk): Ksh 50M - 100M

**Annual Premium: Ksh 220,000 - 800,000** depending on specialty and claims history

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**Legal Professionals (Advocates, Lawyers)**

**Common Claims:**

- Missed filing deadlines and limitation periods
- Incorrect legal advice leading to financial loss
- Failure to register security interests
- Conveyancing errors (property transfer mistakes)
- Contract drafting errors
- Conflict of interest violations
- Loss of client documents or funds
- Negligent litigation conduct

**Real Example:** Lawyer missed deadline to file appeal in Ksh 8M commercial dispute. Client lost right to appeal. Client sued lawyer for Ksh 8M plus legal costs. Insurance covered Ksh 950K defense costs and Ksh 7.2M settlement.

**Recommended Coverage:**

- Solo practitioners: Ksh 10M - 20M per claim
- Small firms (2-5 lawyers): Ksh 20M - 40M
- Medium/Large firms: Ksh 40M - 100M+

**Annual Premium: Ksh 120,000 - 400,000** depending on firm size and practice areas

**Note:** Law Society of Kenya (LSK) increasingly requiring Professional Indemnity as condition of practice.

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**Architects and Engineers**

**Common Claims:**

- Design defects causing structural failure
  - Building collapse due to design errors
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- Cost overruns due to design mistakes
- Delayed project completion due to design changes
- Code violations in designs
- Inadequate site supervision
- Failure to identify site conditions
- Wrong specifications causing material failures

**Real Example:** Architect designed commercial building with inadequate foundation for soil conditions. Building developed severe cracks within 2 years. Structural repairs cost Ksh 22M. Building owner sued architect for Ksh 22M + Ksh 3M lost rent during repairs. Insurance paid Ksh 1.5M defense and Ksh 19M settlement.

#### **Recommended Coverage:**

- Residential projects: Ksh 15M - 30M per claim
- Commercial projects: Ksh 30M - 60M
- Infrastructure/large projects: Ksh 60M - 150M

**Annual Premium: Ksh 180,000 - 450,000** depending on project size and portfolio

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## **Accountants and Auditors**

#### **Common Claims:**

- Tax calculation errors causing client penalties
- Audit negligence failing to detect fraud
- Incorrect financial statements leading to bad business decisions
- Late filing causing penalties
- Valuation errors in business acquisitions
- Failure to identify going concern issues
- Breach of independence in audits

**Real Example:** Accountant incorrectly calculated VAT for client over 3 years. KRA audit discovered error, assessed Ksh 4.8M in back taxes plus Ksh 2.1M penalties and interest. Client sued accountant for Ksh 6.9M. Insurance paid Ksh 650K defense and Ksh 5.8M settlement.

#### **Recommended Coverage:**

- Small practices: Ksh 10M - 20M per claim
- Medium firms: Ksh 20M - 40M
- Large firms auditing public companies: Ksh 50M - 100M+

**Annual Premium: Ksh 95,000 - 300,000** depending on firm size and audit clients

**Note:** ICPAK (Institute of Certified Public Accountants of Kenya) increasingly requiring PI insurance for practicing members.

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## IT Professionals and Consultants

### Common Claims:

- Software errors causing business losses
- Data loss or corruption
- System downtime and business interruption
- Cyber security breaches due to inadequate protection
- Failed system implementations
- Database errors
- Wrong technical advice
- Failure to deliver projects on time/budget

**Real Example:** IT consultant implemented ERP system for manufacturing client. System had critical bugs causing production delays. Client lost Ksh 6.5M in orders and contracts. Sued consultant for Ksh 8M (losses + implementation costs). Insurance paid Ksh 580K defense and Ksh 5.2M settlement.

### Recommended Coverage:

- Freelance developers: Ksh 5M - 10M per claim
- IT consulting firms: Ksh 10M - 25M
- Large system integrators: Ksh 25M - 50M

**Annual Premium: Ksh 45,000 - 150,000** depending on services and client size

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## General Business Consultants

### Common Claims:

- Wrong business advice leading to financial losses
- Failed strategies causing business decline
- Market analysis errors
- Breach of confidentiality
- Failure to deliver consulting outcomes
- Conflict of interest
- Negligent recommendations

**Real Example:** Management consultant advised client to expand into new market based on flawed market research. Client invested Ksh 12M in expansion that failed within 18 months. Client sued for Ksh 12M. Insurance paid Ksh 420K defense and Ksh 4.5M settlement after proving partial contributory negligence by client.

### Recommended Coverage:

- Solo consultants: Ksh 5M - 10M per claim
- Consulting firms: Ksh 10M - 25M

**Annual Premium: Ksh 35,000 - 95,000** depending on advisory scope

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## **KEY BENEFITS TO YOU**

### **1. Personal Asset Protection**

**Without insurance:** Lawsuit for Ksh 15M. Your personal home, vehicles, savings, investments all at risk. Spouse's assets may be attached. Family financial security destroyed.

**With insurance:** Insurance pays defense costs and settlement. Your personal assets completely protected. Family security maintained.

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### **2. Business Continuity**

**Without insurance:** One lawsuit forces business closure. Reputation destroyed. No ability to continue practicing.

**With insurance:** Business continues operating during litigation. Insurance handles legal matters. Reputation protected through proper defense.

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### **3. Peace of Mind**

Work confidently knowing that honest mistakes won't bankrupt you. Focus on serving clients excellently without fear of frivolous lawsuits destroying your career.

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### **4. Client Confidence**

Many clients now require proof of professional indemnity insurance before engaging services. Having insurance demonstrates professionalism and gives clients confidence in your services.

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### **5. Contract Requirements**

Increasingly, government tenders, corporate clients, and international contracts REQUIRE professional indemnity insurance as condition of engagement. Without it, you lose lucrative opportunities.

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# WHAT'S COVERED VS. WHAT'S NOT COVERED

## COVERED (Typical Policies):

- Negligent acts, errors, or omissions in professional services
- Legal defense costs (lawyers, expert witnesses, court fees)
- Compensation and damages awarded to claimants
- Out-of-court settlements (with insurer approval)
- Costs of regulatory investigations and disciplinary hearings
- Breach of professional duty
- Breach of confidentiality or data protection
- Defamation and libel in professional capacity
- Loss of documents in your care
- Intellectual property infringement claims (in some policies)
- Claims arising from work of employees and subcontractors
- Run-off cover for retired professionals (if purchased)

## NOT COVERED (Standard Exclusions):

- Intentional wrongdoing, fraud, or criminal acts
- Claims known or anticipated before policy start
- Trading losses or business debts
- Property damage or bodily injury (requires separate liability insurance)
- Contractual penalties for late delivery
- Claims exceeding policy limits
- Insolvency of your business
- Fines and penalties (though defense costs often covered)
- Guarantee of specific outcomes
- Claims made after policy expires (unless run-off cover purchased)
- Employee disputes and wrongful termination
- Pollution and environmental damage

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# MANDATORY INSURANCE REQUIREMENTS BY PROFESSION

## Current Requirements (2025):

Profession	Regulatory Body	PI Insurance Status	Notes
Advocates	Law Society of Kenya (LSK)	Strongly Recommended	Moving toward mandatory
Auditors	ICPAK	Mandatory for PIE audits	Required for public interest entities

Profession	Regulatory Body	PI Insurance Status	Notes
<b>Architects</b>	Board of Registration of Architects & Quantity Surveyors	Recommended	Some projects require proof
<b>Engineers</b>	Engineers Board of Kenya (EBK)	Recommended	Government projects increasingly requiring
<b>Medical Doctors</b>	Medical Practitioners & Dentists Board	Strongly Recommended	Private hospitals requiring
<b>Quantity Surveyors</b>	Board of Registration of Architects & Quantity Surveyors	Recommended	Tender requirements increasing
<b>Valuers</b>	Institution of Surveyors of Kenya	Recommended	Banks requiring for valuation instructions

**Trend:** All professions moving toward mandatory requirements within 3-5 years. Get covered now before premiums increase due to mandatory compliance rush.

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## WHY KENYAN PROFESSIONALS NEED THIS INSURANCE NOW

### Growing Trends Making Coverage Essential:

#### 1. Rising Client Litigiousness

- Kenyans increasingly aware of legal rights
- Willingness to sue professionals growing 25% annually
- Social media amplifies disputes and reputational damage
- Class action lawsuits emerging in Kenya

#### 2. Regulatory Pressure

- Professional bodies (LSK, ICPAK, Board of Architects, Medical Practitioners Board) increasingly requiring PI insurance
- Government tenders requiring proof of professional indemnity
- International clients mandating insurance as condition of engagement

#### 3. Higher Compensation Awards

- Kenyan courts awarding larger settlements (influenced by South African and UK precedents)
- Medical malpractice awards now regularly exceeding Ksh 20M
- Professional negligence claims in Ksh 50M+ range becoming common

#### 4. Complex Projects and Higher Stakes

- Professionals handling larger, more complex projects

- Higher project values mean higher potential losses
- Technology failures having wider business impact

## 5. Reputational Risk

- Social media means professional failures go viral instantly
- Online reviews and ratings affect future business
- One lawsuit can destroy years of reputation building

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# OUR ROLE AS YOUR PROFESSIONAL INDEMNITY INSURANCE ADVISOR

## What We Do for You:

- Seek cover with your preferred insurer or recommend best fit insurer for your needs (if you have no one)
- Handle documentations and submission to insurer
- Secure best possible rates
- Obtain insurance policy on payment of premiums
- Reminder before policy expiration (no lapse)
- Re-compare providers yearly (rates change)
- Coordinate seamless renewal
- Guide you through claims process
- Ensure proper documentation
- Follow up with insurer
- Fight denied claims (appeal if wrongfully denied)

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## No Advisory Fees:

You pay nothing for my services - providers pay my commission. You pay the same premium direct or through me—but gain expert guidance, needs analysis, and claims advocacy.

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# FREQUENTLY ASKED QUESTIONS

**Q1: I've practiced for 20 years without insurance and never been sued. Why do I need it now?**

A: Three reasons:

**Past performance doesn't predict future risk:** One client, one mistake, one lawsuit can happen tomorrow regardless of 20 years of excellence.

**The litigation environment has changed:** Clients are more aware of their rights and more willing to sue. Social media and internet research makes finding lawyers easier.

**One claim will bankrupt you:** After 20 years, you likely have substantial assets (home, savings, investments). One Ksh 15M claim destroys everything you've built.

**Example:** Advocate who practiced 28 years without incident missed limitation period on Ksh 12M land dispute. Client sued for Ksh 12M. No insurance. Lost everything including family home at age 56. Now works as employed lawyer, will never recover financially.

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## **Q2: My professional body doesn't require insurance. Why should I buy it?**

A: Your professional body's requirements protect the profession, not your personal assets. Even if not mandatory, insurance is essential because:

- Courts don't care if insurance is mandatory—they'll still award judgments against you
- Your personal assets are at risk regardless of regulatory requirements
- Many professional bodies are moving toward mandatory insurance (be ahead of the curve)
- Clients increasingly expect professionals to have insurance

**Trend:** LSK is discussing mandatory Professional Indemnity for all practicing advocates. ICPAK requires it for auditors of public interest entities (PIE). Medical Practitioners Board strongly recommends it. Expect mandatory requirements across all professions within 5 years.

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## **Q3: What's the difference between "Claims Made" and "Occurrence" coverage?**

A: Professional Indemnity Insurance operates on a "**Claims Made**" basis:

### **Claims Made:**

- Policy must be active when claim is made against you
- Doesn't matter when the work was done
- Requires continuous coverage to stay protected
- Retroactive date covers past work

**Example:** You do work in 2023. Client discovers problem and sues in 2027. Your policy active in 2027 covers the claim (assuming continuous coverage).

### **Occurrence (used in general liability, not professional indemnity):**

- Policy active when incident occurred covers the claim
- Claim can be made years later

**Critical Implication:** Never let professional indemnity lapse. If you cancel coverage, all past work becomes uninsured. Always purchase "run-off cover" or "extended reporting period" when retiring or changing insurers.

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#### **Q4: I'm retiring next year. Do I still need insurance?**

A: YES. You need **Run-Off Cover** (also called Extended Reporting Period or Tail Coverage).

#### **Why:**

- Claims can be made 5-15 years after you retire
- Your work from the past could trigger claims in the future
- Clients discovering problems years later can still sue you
- Without run-off cover, you're personally liable for all past work

#### **Run-Off Coverage Options:**

- **6-year run-off:** Typical for consultants, accountants, IT professionals (Premium: 200-250% of annual premium as one-time payment)
- **10-year run-off:** Recommended for lawyers and doctors (Premium: 250-350% of annual premium)
- **15-year run-off:** Essential for architects and engineers (Premium: 300-400% of annual premium)

**Example:** Architect retiring with annual premium of Ksh 350K. 15-year run-off costs Ksh 1.2M one-time payment. Expensive but essential—architectural claims often emerge 10+ years after project completion when building defects appear.

**Alternative:** Some insurers offer step-down run-off where coverage and premium reduce each year after retirement.

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#### **Q5: I work as an employee, not self-employed. Do I need personal professional indemnity?**

A: **It depends on your employer's policy:**

#### **If employer has professional indemnity covering employees:**

- You're likely covered for work done within scope of employment
- Verify coverage limits are adequate
- Request certificate of insurance with your name listed
- Check if coverage continues after you leave employment (usually doesn't)

#### **You still need personal coverage if:**

- You do any consulting or freelance work on the side
- Employer's coverage has low limits
- You want protection after leaving employment for past work
- Employer excludes certain acts or requires employee contribution to claims
- You're in senior management (directors often personally liable)

**Example:** Doctor employed by hospital. Hospital has Ksh 30M professional indemnity. Doctor also does private clinic work on weekends. Needs personal policy for private work (hospital policy doesn't cover it).

**Best Practice:** Even employed professionals should consider personal coverage (costs 40-60% less than self-employed rates) for complete protection.

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### **Q6: What happens if I change insurance companies? Am I still covered for past work?**

**A: Critical issue requiring careful management:**

**Scenario:** You had Insurance Company A from 2020-2024. You switch to Insurance Company B in 2025. Client sues you in 2025 for work done in 2023.

#### **Which insurer pays?**

- Insurance Company B (your current insurer) pays IF you purchased coverage with a retroactive date covering 2023
- Always declare prior work and purchase retroactive coverage when switching insurers

#### **How to Switch Safely:**

1. Purchase new policy with retroactive date covering all prior work
2. Ensure new policy activates before old policy expires (no gap in coverage)
3. Notify old insurer you're switching (they may offer better terms to retain you)
4. Keep records of all policy periods for future reference

**Warning:** If there's any gap in coverage, work done during the gap period becomes permanently uninsured.

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### **Q7: My projects are small. Do I really need Ksh 10M+ coverage?**

**A: YES.** Coverage should protect against maximum potential loss, not average project size.

#### **Why High Limits Necessary:**

- Claims often exceed project value (consequential losses, multiple claimants, legal costs)
- Court awards based on damages suffered, not fees charged
- One major claim in 30-year career can be catastrophic

**Example:** Consultant charged Ksh 200K for business strategy advice. Client invested Ksh 8M based on advice. Strategy failed. Client sued for Ksh 8M+ claiming negligent advice caused the loss. Consultant's Ksh 5M coverage inadequate—personally liable for Ksh 3M+ shortfall.

#### **Rule of Thumb:**

- Minimum coverage: 2x your annual revenue
  - Better: 3-5x annual revenue
  - Consider maximum potential project losses, not average
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## **Q8: Does insurance cover intentional wrongdoing or fraud?**

A: NO. Insurance covers honest mistakes and negligence, not deliberate acts.

### **Not Covered:**

- Fraud, dishonesty, or criminal acts
- Intentional breaches of duty
- Known problems not disclosed to insurer
- Deliberate violation of professional standards

### **However:**

- Insurance typically covers legal defense costs until fraud/intentionality is proven
- If claim alleges both negligence and fraud, insurance covers the negligence portion
- Burden of proving fraud/intentionality is on insurer—they must demonstrate you acted deliberately

**Protection:** Even if accused of intentional wrongdoing (which you didn't commit), insurance provides legal defense until matter is resolved.

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## **CONTACT ME TODAY**

**Don't risk your career and personal assets. One client lawsuit can destroy everything you've built.**

Professional Indemnity Insurance costing Ksh 35,000 - 450,000 annually protects you from claims that could exceed Ksh 50 million. It's essential professional protection, not optional expense.

### **Get Your Professional Indemnity Quote Now - Contact Me Today**

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