

# The role and importance of Medico-legal insurance

Alex Brownlee, Executive for Ethiqal and Group Health Actuary at Constantia group

*Alex Brownlee answers a few questions about the role and importance of Medico-legal insurance.*

**Cover: What does Medico-legal insurance entail?**

**Alex B:** The main aim of Medico legal insurance is to help ensure doctors stay in practice. It is to protect them when they are accused of medical negligence, or if they have made a mistake with patients.

There are essentially three elements. Firstly, there is Medico- legal advice, secondly the legal support, and then thirdly, the financial support.

When there is a large claim demand, we obviously do insure and cover those claim payouts and those can run into the millions of Rands. That is where the financial protection steps in, so that we keep our doctors in practice.

**Cover: Doctors operate in a very difficult environment. What are some of the factors that have significantly impacted the medical legal space in the past three years?**

**Alex B:** Firstly, there was quite a big increase from the 2000s/ 2010's up to 2016/2017 in litigations, with lawyers focusing more on the medical malpractice space. Since 2016/2017, it has been a bit more stable since, but still at a very high level.

That does create a risk and affordability challenge in this type of insurance. In parallel, in the last decade, social media has caused quite a bit of angst in the doctor space, because it is different to the old style, where you would get a claim or complaint through official routes. Social media opens a wide audience and a different challenge.

Then since 2020, it was really the COVID-19 pandemic that had a major impact. Elective surgeries were stopped, so practitioner income levels were significantly affected. There was also a need to have an expanded scope of practice. Doctors had to move into telemedicine or even just treating COVID patients, which was not the norm. Then also the emotional strain on the doctors, the hours, the waiting in the queues, long queues, the financial strain, all have an effect.

Adapted to include wider scopes of practice. Telemedicine for instance, brings different risks to a normal doctor patient relationship. And then there are income levels.



Medical malpractice insurance is expensive so, if your patient volumes drop, income is impacted. We did assist with some COVID Relief payments last year.

**Cover: How do the risks differ between the Public and Private Healthcare Sectors?**

**Alex B:** At a high level, the public sector, if you look at their volumes, certainly is more exposed to medical negligence claims. Both in the volumes, the number of claims against the doctors and healthcare practitioners, as well as the size of those claims and the payouts. The payouts we have seen in the public sector have been very high relative to the private sector.

So, we do seem to have lower volumes, and the payouts are much more reasonable, although still large, for the high-risk specialties. There are similarities with the high risks that are typically around births, particularly cerebral palsy babies, those are probably the largest payout claims. There is some alignment in terms of our highest risk exposures. But the public sector does seem to have a lot more of those relative to the private sector. The private

sector has more diverse cases across surgical specialists as opposed to just cerebral palsy babies and the birthing space.

**Cover - What is the EthiQal value proposition and how does EthiQal make a difference?**

**Alex B:** Firstly, we are a South African team, based in South Africa, led by South African experts. We have an internal team of clinicians, doctors, lawyers and an actuary. We work quite closely with the professional leadership organisations in the healthcare space.

Secondly, our big philosophy is to help doctors in private practice. We work with professional societies, and we are also the only South African regulated insurer to offer the gold standard product, called Occurrence- Based Cover. The only other provider is MPS, which is overseas based. We strongly believe that is what the doctors need, a proper protected product.

The third one is that we are turning five this year in November, so we have been around and helped stabilise the distressed Obstetrician market, working with professional societies and their leadership in stabilising their premiums. In the mid 2010's, that market was particularly hard hit by massive premium increases and when we came in 2016, we really helped stabilise that. We now are the market leaders in the obstetrician space.

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**Cover: What does it take for a Broker to be able offer Medico-legal cover?**

**Alex B:** We do need to recognise that the product itself and the environment is complex, it is not simple. The underwriting process upfront is more complex. It is more like a commercial underwriting approach. You need to understand holistically - the practice, the doctor, the patients, what procedures they do, the ecosystem that they work in. So, it is quite a complex underwriting process. Even the underwriting renewal space is not just a simple renewal process.

The claims process is also more complex. It really is the start of a whole legal journey, and it can potentially take a number of years. Therefore, the intermediary needs to understand the environment, while understanding of the product is also key. To translate that into the record of advice and that upfront underwriting space is also critical. Then to have a bit of tenacity because doctors, particularly the specialists, are very busy, they do not like

admin and underwriting questions and those types of admin processes. You need to know how to support the doctor through the processes.

Often we find intermediaries that have connections in the healthcare space, maybe through family or through the medical societies. They will have a slightly better understanding of the environment, and that is useful. Then, as I mentioned, to have the tenacity and patience with the doctors to help them through the insurance process.

**Cover: Our doctors have gone through a lot over the last few years. How do we really thank them for that, other than paying them?**

**Alex B:** The 16th of November was Doctor's Day. As EthiQal, and Constantia, we have an annual campaign where we really try to get the public involved, to say thank you. The aim is to get the public to recognize the doctors and healthcare professionals as heroes, to share stories. Entrants also have chance to win prizes. Although this day has passed, I encourage readers to visit [www.doctorsday.co.za](http://www.doctorsday.co.za) find out more and get involved in saying thank you to our doctors, who are a national asset.

