

## حـمـدان الكـعبـي Hamdan Al Kaabi Advocates & Legal Consultancy للمحاماة و الاستشارات القانونية

MEDICAL LIABILITY LAW IN UAE

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# **MEDICAL LIABILITY - LEGAL SERVICES**

UAE Medical Liability Federal Law No. 4 of 2016 followed and as expanded by UAE Cabinet Resolution No. 40 of 2019 concerning the executive regulations of the aforesaid Law on Medical Liability ("Law") shall be applicable to the medical professionals as well as healthcare providers registered in the UAE.

The Law permits aggrieving patients to file medical malpractice complaints before the Public Prosecution or the health authority and requires the authority/prosecution to refer medical malpractice complaints to the Medical Liability Committee formed in accordance with the aforesaid Law.

The Medical Liability Committee is responsible for reviewing medical complaints referred by the health authority, the Public Prosecution, or the courts, and will determine whether or not a medical error has been committed and the seriousness of such error along with the percentage of disability and submit its report.

The objections, appeals and grievances on the Medical Liability Committee report shall be submitted by the professionals/patients or healthcare providers to the Higher Committee for Medical Liability whose decision shall be final and binding upon the parties.

### **Protection To Healthcare Professionals**

The Law **refrains the arrest or temporary imprisonment** of the healthcare professionals, until the Higher Committee of Medical Liability provides a final medical report confirming gross medical error on the part of the involved healthcare professional.

Thus, such provision shall offer protection to professionals and institutions involved in healthcare industry, unless and until the final report of Medical Committee of Higher Committee for Medical Liability confirms the gross medical error in accordance with the Law.





## Civil Damages To Be Awared In Case Of Medical Liability

There are three requirements to prove medical liability as stated below:

- A gross medical error which must be proven by the Medical Liability Committee.
- The damages must have sustained as a result of medical error.
- ▲ The extent of damages must be quantified.

The amount of civil damages shall be awarded by the court, to the extent it deems fit at its exclusive discretion taking into consideration the economic as well as moral damages.

### Healthcare Facitlities / Heatlhcare Providers

Article 25 read with clause 26 of the Law prohibits a practicing professional to practice in the United Arab Emirates without first obtaining civil liability insurance against medical errors as well as professional risks resulting from practicing the profession, from a licensed insurance company registered in UAE.

Without prejudice to the right of individual to take recourse against the practicing professional for medical malpractice, the aggrieving party suffering from the gross medical error of the professional, shall also have the right to claim compensation from the health facility or hosting service provider within whose facility the practicing professional was carrying out his practice.

The owners of the healthcare are themselves responsible to bear the full cost of insurance premium in all cases.

Subrogation: The insurance companies shall be legally subrogated to the rights and obligations of the healthcare facilities and the insured professional.

# **SCOPE OF LEGAL SERVICES**

Our team is committed to offer the below Scope of Legal Services with utmost skill, due diligence and professionalism:

- For the doctors/healthcare professionals/physicians -
  - To represent them before the **Medical Liability Committee** and defend them against the medical malpractice.
  - To facilitate settlement between the aggrieving patients and the practicing professional.
  - To assist them in handling labour relationships with their employers/healthcare providers.
  - To obligate the healthcare providers to **obtain insurances** for the practicing professionals and pay regular premiums.
  - To assist the professionals in submitting claims before the insurance companies and representing them before the **insurance authority** including **sending of legal notices.**
- For the healthcare providers/private institutions -
  - To **defend** the healthcare providers from any liability as a result of **medical malpractice of the professional practitioner.**
  - To assist the healthcare providers in submitting claims before the insurance companies and representing them before the **insurance authority** including **sending of legal notice.**
  - To enable the providers to resolve labour disputes including representation before the court.

In general, we provide legal advisory and handle all kinds of the claims, disputes and cases concerning Medical Liability before the civil as well as criminal courts of UAE.



## **HK ADVOCATES**

We, Hamdan Al Kaabi, Advocates and Legal Consultancy ("HK Advocates") are delighted to have an opportunity to provide our legal expertise and skills to your Company and are pleased to provide you our professional legal services.

HK Advocates has experienced lawyers who have demonstrated commitment to their projects in all the Emirates of UAE, including but not limited to Abu Dhabi, Dubai, Sharjah, Ras Al Khaimah.

This document stipulates the comprehensive, broad and wide-ranging legal services to meet all your requested legal requirements and attend to all your legal needs.

The working relationship between your Company and Hamdan Al Kaabi, Advocates and Legal Consultancy ("HK Advocates") shall be based on the premise that HK Advocates shall act as the legal consultant for your Company and that your Company can communicate for different services in the manner including but not limited to email, telephone, documentation, physical meeting, virtual meeting and so on.

HK Advocates shall always be on its toes to serve your Company with the best possible legal services and is known to provide regular updates to fullest satisfaction of its client.

We are eager to provide you with our legal services, thereby enabling you to concentrate on the smooth working of your business activities and achieving your goals.



## **OUR TEAM**

Our legal team responsible for matters relating to Medical Liability Law are highly competent as they stay upto date with the legislations and regulatory amendments announced for this industry, allowing our firm to provide its clients with highly relevant advice and legal services. The diligent teamwork and years of specialized experience in the sector is a key to providing best Medical Liability related Legal Services.





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