



NEWSLETTER

Absent Employees, Medical Certificates & Traditional Healers

When is a medical certificate a legitimate document to excuse an employee from work?

The BCEA states that a medical certificate can only be issued by a medical practitioner or any other person certified to diagnose and treat patients and who is registered with a professional council established by an act of parliament. The Medical and Dental Professions Board of the Health Professions Council of SA have established criteria for the information that must be contained in a medical certificate.

The information that must be listed on a medical certificate are:

- name, address and qualification of the practitioner;
- name of patient;
- employment number of patient (if applicable);
- date and time of examination;
- whether the certificate is issued as a result of a personal observation/examination of the patient or from information provided by the patient based on acceptable medical grounds;
- description of the illness in layman's terms with the consent of the employee or if no consent is granted, then the practitioner must specify in his opinion based on an examination, that the employee is unfit for work;
- if the employee is completely unable to work or can perform light duties;
- exact period of the recommended sick leave;
- date of issuing the certificate;
- clear indication of the identity of the practitioner, personally and originally signed by him/her, next to his/her initials and surname printed in block letters.

Given the number of sham 'practitioners' out there, it is therefore important for the employer to scrutinise medical certificates and ensure that they are genuine. The employee bears the onus to provide proof of absence. Failing provide such or presenting a false medical certificate could lead to disciplinary action. An employer is also not obliged to pay for sick leave if the employee does not provide adequate proof of absence due to illness.

It sometimes happens that an employee absents himself/herself from work and then presents a medical certificate on his/her return. This may be accepted as long as the employee contacted the company at the commencement of the absence and informed his/her employer that he/she is ill.

Employees also absent themselves and then consult a doctor just before returning to work. The doctor then notes on the medical certificate: "As I was informed, the employee has not been able to attend work for the last three days." This is not acceptable. The employee should see the doctor at the commencement of the illness/absence and the doctor must then book the employee off for the next few days.



What about sick notes from traditional healers?

A recent Labour Appeal Court case dealt with this very question. In *Kieviets Kroon Country Estate (Pty) Ltd v Mmoleli and Others (875/12) [2013] ZASCA 189* the Supreme Court of Appeal (SCA), the court held that employers could not have a blanket exclusion of sick notes issued by traditional healers. Employers would still have to give some weight to these sick notes and consider each case on its merits. The reality is however, that employers will find it difficult to test the authenticity of such documents. Traditional healer sick notes are often written on a scrap of paper and do not contain the information that the Health Professions Council of SA require from a bona fide medical certificate.

Should an employer include a provision in their sick leave policy to make provision for traditional healers? I would suggest not. Although careful consideration should be given to notes from traditional healers, creating the impression that such notes are accepted could open the floodgates for phony sick notes to come pouring in. The employer would have virtually no guarantee that these notes are genuine or bona fide. Some employers have entered into agreements with unions or staff where they have agreed to recognise notes from traditional healers. The *Kiewiets Kroon* case has no doubt set the precedent that traditional healers and traditional beliefs cannot simply be disregarded any longer.

Please contact the GEO offices should you need assistance. Our number is 0861 436 436.

19-08-2015

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