

Judicial Fury and Crisis of Credibility: Medical Certificates Under Fire

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ABSTRACT

Medical certificates, commonly referred to as “sick notes,” occupy a critical space at the intersection of health, law, and employment. Their primary statutory purpose is to authenticate incapacity to perform work, thereby protecting patients against inequitable treatment and providing employers with evidentiary proof for managing absenteeism.

In recent years, however, courts within South Africa and elsewhere have expressed a growing concern about the misuse and substandard issuance of these documents. Judicial scrutiny has been directed not only at employees who exploit medical certificates, but also at practitioners who use them carelessly or dishonestly, as exemplified by the recent proceedings before the Madlanga Commission. This paper examines the statutory objectives of medical certificates, provides analyses of case law in which their credibility has been challenged, and highlights the ethical and professional obligations incumbent upon practitioners. It argues that in the absence of meaningful regulatory reforms, medical certificates risk losing their legitimacy as trusted instruments in regulating absenteeism.

CASE STUDY: MADLANGA'S FURY OVER “USELESS” MEDICAL CERTIFICATES

On Wednesday, the 4th of March 2026, Retired Judge Mbuyiseli Madlanga addressed the Commission regarding the submission of inadequate medical certificates by witnesses.¹ He warned that the Commission “would not accept vague or useless medical certificates as justifiable excuses for non-appearance”. Judge Madlanga recorded that the Commission contemplated requesting the Health Professions Council of South Africa (HPCSA) to authenticate and assess the adequacy of the submitted medical documentation. Subsequently, the HPCSA on the 6th of March 2026 issued a public caution to doctors against deceitful or untruthful medical certificates, reinforcing the Commission's stance.¹

Madlanga's remarks followed the absence of alleged political fixer Brown Mogotsi, who had been scheduled to testify on

Monday the 2nd of March 2026, but submitted a sick note citing only “medical condition”. Another witness had previously submitted a similar unsatisfactory certificate. Many vague templates, such as “unfit for work” or “as I was informed by him/her that he/she was unfit for work”, remain overused by medical professionals in South Africa and internationally, compromising professional ethics.

Judge Madlanga emphasised that such absences disrupted the commission's procedural timetable. Proceedings halt entirely when witnesses fail to appear, jeopardising the commission's capacity to meet its deadlines. He criticised medical certificates for lacking detail, which did not assist the commission in understanding valid reasons for absence. In Brown Mogotsi's case, the certificate provided no specific information about the medical condition. Madlanga asserted the commission's right to call upon the issuing medical practitioner for clarification.¹

DISCUSSION

Objectives of Medical Certificates

The primary objective of a medical certificate is to provide objective evidence of an individual's incapacity to perform prescribed duties, grounded in a qualified medical practitioner's professional examination and judgement, it is intended to show with facts that a person is genuinely sick or injured and therefore unable to perform their duties.^{2,3}

Ethically, the medical certificate functions to protect patients against discriminatory practices, ensuring that genuine health conditions are recognised and not penalised. It is supposed to prove, with facts, that a person is genuinely sick or injured to perform their duties. Legally, it serves as proof that an employee is legitimately unable to perform duties due to illness or injury.²⁻⁴

Medical certificates also serve as operational and strategic instruments for employers and insurers. At the operational level, they provide clarity on the duration and nature of an employee's absence, enabling managers to plan workforce coverage, adjust schedules, and process payroll or benefits accurately. Insurers similarly rely on precise documentation to validate claims and prevent fraudulent submissions. Strategically, the credibility of medical notes underpins trust between employers, employees, and insurers. Thereby, reducing disputes and safeguarding compliance with labour laws.⁵

Patterns in medical certification also inform broader workplace health policies, wellness initiatives, and insurance underwriting, while clear documentation helps control costs and forecast liabilities. In this way, the medical certificates function as more than a clinical record; they are a critical tool for organisational continuity, financial planning, and legal protection. When poorly written or vague, however, they undermine both operational efficiency and strategic decision-making, exposing institutions to risk and eroding confidence in the medical profession.^{6,7}

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A well-written certificate should balance disclosure with confidentiality. While employers require sufficient detail to manage absence, practitioners must avoid breaching patient privacy.⁷ The challenge lies in providing enough information to establish credibility without revealing sensitive medical details. In essence, the medical certificate is not a shield for dishonesty but a legal and ethical instrument that must be handled with precision.⁷⁻⁹

In summary, practitioners must act as “gatekeepers of the truth” when issuing medical certificates. It is the responsibility of practitioners to ensure that the “sick note” is anchored in objectivity, ethics, and accountability, as discussed below.⁸⁻¹⁰

Ensure consistency – issue a medical certificate based on professional examinations and clinical findings, not only on the patient’s accounts or preferences. This is in line with HPCSA Rule 16(1)(e) to 16(1)(f), which stipulates that “a medical certificate should only be issued on the basis of a proper medical examination and diagnosis of a patient, and not on the mere observation of a patient.”⁸

Maintain ethical standards – uphold honesty and integrity by certifying inability only when medically justified; avoid exaggeration or falsification.

Provide accurate documents – record clear and real details of the condition and its impact on the ability of the patient to work or perform tasks

Exercise legal accountability – respect patient experience yet ensure that the inability is supported by objective medical reasons.

Protect professional credibility – resist external pressure to issue unjustified certificates.

LEGAL PRECEDENCE OF MEDICAL CERTIFICATES

1. *Woolworths (Pty) Ltd v CCMA and Others* (JA90/22) ZALAC 29

The matter before the Labour Appeal Court (LAC) on 13 June 2024 involved Woolworths’ dismissal of an employee following the submission of a fraudulent medical certificate.¹¹⁻¹³ Woolworths had raised suspicions based on prior warnings. The CCMA found the dismissal substantively unfair, a ruling which was upheld by the Labour Court and LAC, as Woolworths failed to prove the certificate’s fraudulence. The court considered the employee’s knowledge of the irregularity. This was despite her inconsistent statements about prior consultations with the same doctor.¹¹⁻¹²

Outcome of the Arbitration Process

The arbitration commissioner ruled that the employee’s dismissal was substantively unfair.

The commissioner concluded that the medical certificates were valid and regular, and there was no evidence to suggest that the employee had acted dishonestly or submitted fraudulent documents. Consequently, the commissioner ordered relief in favour of the LAC and dismissed Woolworth’s appeal, by finding no basis to interfere with the arbitration award.¹² This case highlights the importance of employers conducting thorough investigations before taking disciplinary

action based on suspicions of misconduct. In other words, employers should verify the validity of the medical certificates based on the requirements of Section 23 of the Basic Conditions of Employment Act¹³ (BCEA) and Rule 16 of the HPCSA’s Ethical Rules of Conduct.⁷

2. *Sibanye Rustenburg Platinum Mine vs AMCU obo D Sono and Others* [JA32/2022]

In contrast, 59 employees of Sibanye Rustenburg Platinum Mine were dismissed for submitting fraudulent sick notes, which constituted gross dishonesty and undermined the trust relationship between the employer and employees.¹⁴ The Labour Appeal Court upheld the decision of the Labour Court, confirming the substantive fairness of the dismissals. This ruling demonstrated judicial intolerance for outright fraud, in this case, the forgery or collusion with practitioners constitutes serious misconduct. Several other cases of abuse of medical certificates have been served in South African courts, describing the “endemic abuse” of medical certificates.¹⁴ This ongoing practice undermines workplace trust, erodes confidence in the medical profession, and costs billions annually.

3. *Mgobhozi v Naidoo NO and Others* (DA11/03) ZALAC 17; BLLR 252 (LAC)

The employee was dismissed from the Durban Metropolitan Council (Housing) on the 4th of April 2000, following an internal disciplinary inquiry that found him guilty of various acts of dishonesty. His internal appeal and application for condonation for the late filing of the review were dismissed by the Labour Court and subsequently upheld by the Labour Appeal Court.¹⁶

The medical certificates submitted by the employee were deemed hearsay evidence because they were not accompanied by supporting affidavits from the issuing doctors. The Labour Court adheres to the same evidentiary rules as the High Court and the Supreme Court of Appeal. The admissibility of hearsay evidence is governed by s3 of the Evidence Amendment Act 45 of 1988, which outlines specific conditions under which hearsay evidence may be admitted. The court found the medical certificates to be vague and lacking sufficient detail to substantiate the employee’s claim of incapacity. The certificates did not provide specific information about the nature of his illness, the treatment prescribed, or how the illness rendered him incapable of filing the review application on time. Hence, they lacked probative value for the courts to make a ruling.

CONCLUSION

A medical certificate is hearsay, and therefore employers are not obliged to accept it at face value if they reasonably suspect its validity. Consequently, they may investigate the employee’s alleged incapacity without breaching legal duties.

IMPLICATIONS OF COURT RULINGS ON MEDICAL CERTIFICATES.

Based on the above judgments, the following comprehensive ruling applies to medical certificates in practice:

1. Legal Standards for Admissibility

Although, medical certificates do not mandatorily require supporting affidavits from issuing practitioners to be valid for everyday employment purposes under section 23 of the Basic Conditions of Employment Act¹³ – they serve as

prima facie proof of incapacity in such contexts. However, when tendered as evidence in formal legal proceedings, they constitute hearsay as provided for by Section 5 of the Law of Evidence Amendment Act 45 of 1988¹⁶, unless corroborated by the practitioner's affidavit or testimony detailing the diagnosis, treatment, and functional impact, as per *Mgobhozi v Naidoo* ZALAC 17.¹⁶

2. Employer's Duty to Investigate

Before initiating disciplinary action, employers are entitled to investigate suspected fraudulent or irregular medical certificates to establish clear proof of misconduct. A mere suspicion or substantiated hearsay as cautioned in *Woolworths v CCMA* ZALAC 29 cannot warrant a dismissal, though procedural irregularities as per *Sibanye Rustenburg v AMCU* may justify probe escalation.^{11,14}

3. Protection of Employees

Based on the *Woolworths* case outcome employees who submit medical certificates in good faith should not face disciplinary action for the alleged irregularities of the issuing doctor unless it is proven that the employee knowingly participated in fraudulent activities.

4. Professional Accountability for Doctors

Practitioners have a duty to balance disclosure with confidentiality. While patient privacy must be respected, certificates must contain sufficient detail to establish legitimacy. Professional accountability requires that doctors resist pressure from patients seeking unjustified leave. Issuing notes without examination or colluding in dishonesty breaches both ethical codes and legal obligations. Practitioners must ensure their certificates are issued based on genuine medical assessments and are defensible under scrutiny. They should avoid issuing vague or generalised certificates and must be prepared to provide affidavits or testify in court if required. The HPCSA Rule 16 outlines the requirements of a valid medical certificate.⁸⁻¹⁰

5. Role of Regulatory Bodies

Regulatory bodies must actively review and revise guidelines in line with current developments. Additionally, employers should report suspicious practices to these bodies rather than penalise employees who unknowingly use such services. The HPCSA has imposed cautions, reprimands, and fines not exceeding R15,000 on guilty health professionals.⁷⁻¹⁰

Judicial Vigilance Against Misuse

Courts must remain vigilant against the misuse of medical certificates and ensure that only admissible and credible evidence is considered in legal proceedings.

CONCLUSION

The *Woolworths*, *Sibanye*, and *Mgobhozi* judgments mark out a triangulated framework: (i) medical certificates enjoy BCEA S23 presumptive validity yet calls for evidentiary substantiation (*Mgobhozi*) and (ii) withstand employer probes where irregularity is proven (*Sibanye*), provided employee good faith is untainted (*Woolworths*).^{11,14,16} This balances

labour protection with fraud deterrence, placing practitioners at the *fulcrum*, ethically bound by HPCSA Booklet 2 to issue objective, verifiable certificates lest they imperil patient rights and invite judicial rebuke.⁹

In the absence of statutory reforms, mandatory serialisation, digital authentication, and practitioner certification standards, medical certificates are exposed to systemic delegitimisation, entraps bona fide (genuine) employees in evidentiary disputes while abetting abuse. Courts have issued their warning; the profession and legislature must address this health-law-employment nexus to restore trust.

Consequently, medical practitioners issuing medical certificates are obliged to acknowledge their legal and ethical responsibilities associated with their professional role. They must ensure that their certificates are meticulously detailed, explicitly specific, and supported by affidavits when used in legal proceedings. This practice upholds the integrity of medical certificates, safeguards the rights of all parties, and perfectly aligns with professional ethical standards requiring transparency, accountability and the avoidance of insufficient or misleading evidence.

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