

# Employers not obliged to accept medical certificates from traditional healers

By [Faan Coetzee](#) and [Kgotsi Matjila](#)

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Employees have not been permitted to provide traditional healers' certificates as proof of incapacity after a period of absenteeism from the workplace. This is due to the lack of an established professional council as required by s23 of the Basic Conditions of Employment Act, No 75 of 1997 (BCEA).



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On 1 May 2014 a proclamation was made giving effect to several provisions of the Traditional Health Practitioners Act, No 22 of 2007 (THPA). The most significant of these provision was s4 of the THPA which established the Interim Traditional Health Practitioners Council of South Africa.

The BCEA provides under s23 that for an employee to be paid out for sick leave a medical certificate must be furnished by an employee to account for their absence from the workplace due to sickness or injury. Furthermore, s23(2) requires that a medical certificate furnished as proof of incapacity must be produced and signed by a medical practitioner who is registered with a professional council recognised by an Act of Parliament.

Prior to the proclamation of the THPA, employers were able to reject proof of incapacity certificates from traditional healers as traditional healers lacked a recognised professional council as required by s23(2). Essentially this meant that any certificates provided by employees from traditional healers were non-compliant with the provisions of the BCEA.

## Impression created

The President's proclamation effectively made way for the establishment of the council which the traditional healers previously lacked. Thus an impression was created that traditional healers would now be able to issue their patients with sick notes in accordance with s23 of the BCEA.

Despite the council's long awaited establishment, employers and employees should be wary of arriving at an incorrect conclusion. Section 47 of the THPA envisages a number of regulations which are required to be promulgated by the Minister of Health after consultation with the council in order to create a regulatory framework necessary to oversee the practices of traditional healers such as their qualifications, registrations, age and conduct.

In short, until such a time as the Minister of Health has promulgated the relevant regulations in order to bring traditional healer certificates in line with the requirements of the BCEA, employers are not obliged to accept a medical certificate from their employees that has been issued by a traditional healer.

## ABOUT THE AUTHOR

Faan Goetzee is an executive consultant and Kgotsi Matjila is a candidate attorney in Employment at Cliffe Dekker Hofmeyr.

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