

Traditional healers: What leave regulations say about training and treatment

South Africa's constitution explicitly acknowledges the country's multiplicity of cultural and traditional beliefs, and many people consider these to be an integral part of their personal identity.



Image source: starush – [123RF.com](https://www.123RF.com)

Accommodating these beliefs in the workplace, however, can be challenging for employers, especially considering that the Labour Relations Act (LRA) and Employment Equity Act (EEA) stipulate that employees may not be discriminated against based on their religion, belief and culture, among other things.

So, if an employee applies for leave to undergo training to become a sangoma or traditional healer, does this mean employers are contravening the LRA and EEA if they say no?

It all comes down to consistency and fairness, says Nicol Myburgh, Head: HCM Business Unit at CRS Technologies. “In other words, principles applied to one religion, culture or belief must apply to all.

“The question employers need to ask themselves is whether they would approve similar requests from employees of other religions and beliefs – for example, if a Christian wishes to carry out missionary work for a specified period, or a Muslim wants time off to travel to Mecca for the Hajj pilgrimage.

"If the answer is 'no' in all instances, then there can be no accusations of discrimination and the employer has not contravened the relevant Acts."

Of course, nothing prevents the employee from applying for holiday or unpaid leave to accomplish their religious objective, Myburgh adds, but it is up to the employer to decide whether granting this leave request is in the best operational interests of the organisation.

"If the business cannot afford it, the employer has every right to decline the request and the employee must abide by that decision."



Instances when an employer can query the validity of the medical certificate

Dumisani Ndiweni & Kgololego Pooe 16 Oct 2023



The issue of sick notes

Another issue that may give rise to controversy in the workplace is that of sick notes. Employees who choose to be treated by a traditional healer may feel they are being discriminated against if their employer refuses to accept a sick note issued by their preferred sangoma.

Sangomas are legally recognised in South Africa as traditional health practitioners under the Traditional Health Practitioners Act of 2007, which provides for the establishment of the Traditional Health Practitioners Council (THPC).

According to the Basic Conditions of Employment Act, sick notes may only be issued by medical practitioners registered with a professional council, Myburgh explains.

"Consequently, only traditional healers who are certified to diagnose and treat patients and who are registered with the THPC may issue medical certificates. If these requirements are not met, the employer is entitled to reject the sick note and the employee may have to forfeit their salary for the period in which they were absent from work."

It is in the organisation's best interests to document its stance on religious, cultural and sick leave in a comprehensive leave policy, Myburgh advises.

"Besides ensuring compliance with labour legislation, a clear leave policy establishes consistent guidelines for all employees so that they are treated fairly and equally, and helps to avoid potential favouritism or bias in leave approvals. This is the best way to prevent disputes and legal issues related to leave entitlements."

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