

# What does the law say about traditional healers?

 By [Lia Marus](#)

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For many years, traditional healers have been looked at very sceptically by many of those who do not visit these practitioners for health-related ailments. However, recent cases which have passed through our courts have left many employers wondering if they now need to accept sick notes from traditional healers.

A couple of weeks ago, I went to a seminar run by Cliffe Dekker Hofmeyr (CDH) where Mohsina Chenia from CDH told us where the law currently stands with regard to traditional healers.

In Jan Kemp Nel's article, entitled '7 Facts that you must know NOW about sick notes', he says that as yet, traditional healers have not been allowed to issue valid medical certificates. However, in *Kiviets Kroon Country Estate (Pty) Ltd v Mmoledi & others* [LAC] JA78/10), where an employee was dismissed because she stayed away from work, inter alia, because she had a medical certificate from a traditional healer saying that she had "perminitions of ancestors", the CCMA and the Labour Court declared that the employee's dismissal was unjustified, as she had a justifiable reason for her unauthorised absence. When the case was taken on appeal, the Labour Appeal Court stated, among other things, that as the Constitution recognises traditional beliefs and practices, others should reasonably accommodate others' beliefs and not trivialise them.

Employers must develop their own systems to deal with medical certificates from traditional healers. As consulting a traditional healer is, in most cases, cheaper than consulting a Western-trained medical practitioner, allowances should be made by employers to accommodate their employees.

Chenia stated that many large corporations are choosing to work with traditional healers and often, in conjunction with the representative trade union in the workplace, reach agreements which recognise under certain conditions, certificates which are issued by these healers

## The Traditional Health Practitioners Act of 2004: The solution?

According to Chenia, the Traditional Health Practitioners Act (THPA) of 2007 was signed into law in February 2008. The aim of this act, among others, is to:

- Establish the Interim Traditional Health Practitioner Council of South Africa (THPCSA),
- Provide for the registration, training and practices of traditional health practitioners in South Africa, and
- Serve and protect the interests of members of the public who visit traditional health practitioners.

The THPCSA was inaugurated in February 2013 and when its regulations are finalised, traditional healers will need to register with the council and only medical certificates issued by healers registered with this council will be accepted by employers.

## What can you do if you suspect a traditional healer has issued a fraudulent medical certificate?

You can either lay a complaint with the Health Professions Council of South Africa (HPCSA) or the THPCSA. The latter may make enquiries and investigate complaints and allegations concerning the conduct of registered traditional health practitioners and take the appropriate disciplinary action against the traditional health practitioner concerned.

## ABOUT LIA MARUS

Lia Marus is the editor of HR Pulse, which is an online HR publication published by ITWeb. She has a BA in French, Italian and Linguistics from UCT, an MA in translation from Wits and a Postgraduate Diploma in Management from the Wits Business School. She is currently studying towards her LLB through Unisa.

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