

## Ethical Issues around

# MEDICAL CERTIFICATES

## PART 02

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This is the second article in a two-part series on medical certificates (MCs). The first (<http://bit.ly/2UvPukQ>) discussed the guidelines for writing MCs responsibly, with attention to accountability and confidentiality, as well as the types of certified sick leave available.

This article will address the importance of issuing an adequate duration of sick leave, and the advisability of providing limited uncertified sick leave.

### Workplace safety

The issue of giving inadequate medical leave following work-related injuries has recently received much attention in the press.<sup>1,2</sup>

The Workplace Health and Safety Act requires that employers notify the Ministry of Manpower (MOM) of work-related accidents that result in workers being given more than three days of sick leave,<sup>3</sup> so that

an investigation can be made following any significant work-related injuries. Such investigations may be inconvenient or expensive, leading employers to occasionally request for shorter MC durations to avoid triggering them, sometimes even suggesting that the doctor's contract with the company hinges on his/her acquiescence.<sup>4,5</sup> Employers may also request for MCs specifying that the patient is fit for light duties, rather than unfit to work at all, as these do not have to be reported to MOM.

These requests can also come from the patient him/herself. Ordinarily, although doctors should consider only medical factors when issuing MCs,<sup>6</sup> they may allow their patients some say in the MC duration, such as issuing fewer days when a patient would like to return to work earlier after an illness, as long as it presents no risk to himself/herself or others. However, in the setting of a workplace injury, such

requests from patients may be a result of coercion from employers rather than a genuine desire to return to work early. Coercion can take the form of promises to allow the employee to rest with pay or assurances that compensation will be paid even without medical certification, or in the form of threats of repatriation.<sup>4</sup> These promises may not be kept, leaving the worker unpaid and unprotected.

This is an important reason for doctors to reject requests to shorten medical leave or prescribe light duties for work-related injuries. Doctors should also be aware that adequate medical leave is given not merely for the benefit of the individual patient in this case, but because it plays a role in maintaining workplace safety for other employees through the reporting system.

It is uncomfortable for professionals who are trained to be compassionate and respectful towards

their patients to be caught between individuals and policy. Using MC duration as an indicator of worksite safety is an imperfect mechanism, placing an undue burden on the doctor and potentially jeopardising employees' welfare.

Unfortunately, until such time as a more reliable reporting system is in place, it seems doctors must view work-related injury MC issuance partly as a duty to the public. As stakeholders, and as a profession with an interest in protecting the vulnerable, we must also continue to urge reviews of the system.<sup>7</sup>

### Preventing disease transmission

Taking adequate medical leave also plays a part in preventing the spread of infectious diseases.<sup>8</sup> During the SARS outbreak of 2003, taking sick leave became an obligation rather than a luxury for doctors because of the potentially serious consequences of disease transmission. Similarly, in outbreaks of gastrointestinal or respiratory disease, such as influenza, adequate medical leave allows for the relative isolation of unwell persons.

Some employers discourage MC-taking by rewarding perfect attendance. They may offer outright rewards for a period of perfect attendance, or make it clear that sick days will be considered negatively during performance appraisals. This unfairly penalises those afflicted with illness, rewards the often-unearned good fortune of health, and encourages "presenteeism", as unwell employees try to preserve their attendance records.

Childcare centres also rely on the duration of medical leave advised to indicate when it is safe for children to return to school after episodes of infectious diseases (such as hand, foot and mouth disease or chickenpox).

### Considering uncertified paid sick leave

There has been much debate in the last few years about the possibility of allowing paid uncertified sick leave.<sup>9</sup> At present, the Employment Act allows an employer to require an MC before granting paid sick leave,<sup>2</sup> although some employers do allow a limited number of days of paid uncertified sick leave.

Labour laws in Hong Kong<sup>10</sup> and Australia<sup>11</sup> are similar, while UK law requires employers to allow seven days of uncertified paid sick leave per year.<sup>12</sup> The US has no federal law mandating paid sick leave, although some states do.<sup>13</sup>

It seems reasonable to trust employees to not abuse a system of uncertified paid sick leave, and to recognise that abuse of the system can take place even when MCs are procured. The requirement for MCs involves clinic visits that have financial costs to employers and eat into the employee's rest time. It also burdens the primary healthcare system with patients who could otherwise manage uncomplicated illnesses with rest and over-the-counter medicine.

The requirement for MCs may also encourage employees to attend work while they are ill, resulting in reduced productivity and potentially spreading contagious illnesses to other employees.<sup>10</sup>

The concept of taking a "mental health day" to help employees manage stress and avoid burnout is also gaining traction in the discussions of workplace health. Encouraging this by allowing the occasional paid absence without an MC may benefit individuals and increase productivity.

Clearly, there are a number of potential ethical dilemmas involved in the everyday practice of issuing MCs. An awareness of these issues will allow doctors to act in their patients' best interests, and hopefully minimise the moral distress of balancing conflicting principles. ♦

### References

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