

*Guidelines for pharmacists
issuing certificates for
absence from work*



October 2010



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This document was developed and produced jointly by the Pharmaceutical Society of Australia Ltd. and The Pharmacy Guild of Australia.

The document is intended to assist pharmacists in meeting their legal and professional obligations when issuing certificates for absence from work in the context of the *Fair Work Act 2009*. The document aims to assist pharmacists in issuing certificates that are compliant with all relevant laws, and to minimise the risk of professional negligence. However, the ultimate responsibility for issuing certificates and any consequences will still rest with each pharmacist.

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- Any interpretations or opinions stated in, or which may be inferred from, the guidelines.

A. Background

1. The *Fair Work Act 2009*¹

Under the current system of industrial law, employees can be required by their employer to provide certificates to verify certain absences from work.

The *Fair Work Act 2009* (the Act) which came into effect on 1 July 2009, applies to all “federal system” employees (see under ‘Terminology’ below). The Act continues to allow for pharmacists or other types of medical or allied health practitioners to issue certificates as proof of legitimate absence from work.

A pharmacist’s certificate has to be able to “satisfy a reasonable person” of the relevant condition necessitating an absence from work (see s. 107(3) of the Act). When requested to provide a certificate, a pharmacist must consider if it is reasonable, with the knowledge available to him/her about the employee’s condition, to provide that certification and to provide sufficient information in the certificate to satisfy a reasonable employer of the legitimacy of the employee’s absence from work.

A pharmacist may provide certification to an employee in respect of the area of practice in which the practitioner is registered for:²

- **personal leave**, if the employee is not fit for work due to illness or injury; or
- **carer’s leave**, for an employee to provide care or support to a family or household member who is ill or injured or affected by an emergency.

Pharmacists are not able to provide certification for pregnancy-related requests or for compassionate leave (although the latter is not expressly excluded under the Act). Note also that some workplace agreements or awards can require certificates from a registered medical practitioner in certain circumstances.

2. Terminology

A “federal system” employee is one that:

- works for a proprietary company (often indicated by Pty Ltd in the company name);
- is paid by a proprietary company;
- is employed in the Australian Capital Territory, the Northern Territory or Victoria (includes sole traders, partnerships, trusts, etc.); or
- is employed in New South Wales, Queensland, South Australia and Tasmania after 1 January 2011.

An **immediate family** member includes:

- A spouse, de facto partner, child, parent, grandparent, grandchild or sibling of the person; and
- A child, parent, grandparent, grandchild or sibling of a spouse or de facto partner of the person.

In these guidelines, the terms ‘employer’ and ‘employee’ are used from time to time where the relevant context can be expressed more appropriately. Pharmacists are reminded that in the context of this document, a person requesting a certificate for absence from work is the ‘employee’.

B. Implications for pharmacists

1. Limitations on pharmacists

The issuing of certificates is deemed to be within the scope of practice of a registered pharmacist in Australia, provided they are acting within their competency and professional expertise as a pharmacist.

It is expected that pharmacists will limit the provision of certificates primarily in relation to:

- The supply, compounding or dispensing of medicines; and
- The provision of professional pharmacy services including advice on minor conditions and the effective and safe use of medicines.

Because of these limitations, pharmacists will need to carefully consider whether or not the illness or injury that is the subject of the certificate is within their recognised area of practice.

For pharmacists the decision on whether or not to issue a certificate must not be taken lightly. Certificates document the professional opinion of a pharmacist that a person is (or will be) unfit for work duties for a period due to illness or injury. The pharmacist needs to exercise careful judgement when issuing a certificate as it is the pharmacist’s professional opinion that forms the basis for the certificate.

2. No obligation

It is important to remember that pharmacists are not under any obligation to issue a certificate when requested. It is entirely up to pharmacists whether or not they issue a certificate in particular circumstances.

If you are subjected to pressure, or feel uncomfortable or unsure about issuing a certificate at any time, you should decline from providing a certificate.

It may be helpful for pharmacists to know that even when a person is unable to obtain a certificate from a pharmacist, the person can sign a statutory declaration saying that they were unfit for work.

1. Full text of the Act is available from www.comlaw.gov.au

2. For example, a dentist would not be able to issue a certificate in relation to a sprained ankle.

3. Risks

Pharmacists should be aware of the risks involved with issuing certificates. These include:

- Allegations of negligence;
- Allegations of professional misconduct;
- Loss of registration due to professional misconduct;
- Breach of the legal requirements including issuing certificates outside your area of practice; and
- Insurance implications.

C. Preparation required for the service

1. Allocation of resources

If the managing pharmacist determines that the pharmacy may be involved in issuing certificates, consideration must be given to allocating the necessary resources (e.g. informing staff about the service, assigning responsibilities to staff, establishing policies and systems) to ensure any requests for certificates can be responded to appropriately.

2. Privacy and confidentiality

Pharmacists must respect and safeguard the consumer's privacy and confidentiality at all times, particularly in relation to information acquired in the course of issuing certificates.

Pharmacists should refer to the privacy guidelines^{3,4} as well as any state/territory privacy legislation or health privacy frameworks. Pharmacists must also meet the relevant professional standards (e.g. criterion 3 of the *Fundamental Pharmacy Practice* standard⁵) in the provision of certificates.

3. Consultation area

Pharmacists will need to conduct a face-to-face consultation with the person requesting a certificate or the member of their immediate family or household. The pharmacist must ensure the consultation is conducted in a private and confidential environment without distractions or interruptions.

4. Record keeping

For insurance and legal reasons, it is recommended that pharmacists keep the following records:

- A record of the consultation (see Appendix 2 for a sample record); and
- A copy (e.g. photocopy, carbon copy or second printed copy) of the final certificate issued.

An employer (to whom a certificate has been presented by the employee) may, with the written consent of the employee, seek further information from the pharmacist who issued the certificate, but only where such information is reasonably required. Pharmacists will need to maintain records so that requests of this kind can be addressed as necessary.

All records must be stored in a secure and confidential manner while being retrievable by authorised pharmacy staff. It is recommended that all records be maintained for at least 12 months from the date of the consultation.

5. Fee for service

Pharmacists are entitled to charge for issuing a certificate. Pharmacists may determine how much they intend to charge. It is expected that the required consultation and issuing of a certificate, if appropriate, will take around ten minutes. The fee should reflect the consultation period and other business infrastructure costs.⁶

Pharmacists should also consider whether or not they will charge a fee if they conduct a consultation but do not issue a certificate. This will be a matter for the managing pharmacist to determine.

The person should be advised of the fee for service policy prior to the commencement of the certificate consultation.

6. Information about the service

Pharmacists should provide complete, truthful and accurate information about the nature of the service (including cost) prior to conducting a consultation. This is in line with Principle Seven of the Code of Professional Conduct.⁷

Active promotion (advertising) of the service is not encouraged.

It is particularly important that the person requesting a certificate understands that:

- A certificate issued by a pharmacist is generally not acceptable for purposes other than as evidence to support a person's absence from work on personal leave or carer's leave;
- The pharmacist is not a medical practitioner;
- Any opinion will be or has been provided as a pharmacist, not as a doctor; and

3. Pharmaceutical Society of Australia Ltd.. Professional Practice and the Privacy Act. 2001.

4. The Pharmacy Guild of Australia. Managing Privacy. Available from: www.guild.org.au

5. Pharmaceutical Society of Australia Ltd.. Professional Practice Standards. Version 4, 2010. pp. 11–14. Available from: www.psa.org.au.

6. The Pharmacy Guild of Australia. Certificate Pricing Model Considerations. September 2010. Available from: www.guild.org.au

7. Pharmaceutical Society of Australia Ltd.. Code of Professional Conduct. 1998. Available from: www.psa.org.au. (Currently under review.)

- A consultation is not intended to replace medical treatment, opinion or diagnosis, and that if the illness or injury persists or worsens, medical attention must be sought.

While it is helpful if the person's understanding of the above issues can be clarified prior to the consultation, the pharmacist should also reiterate these points at the time a certificate is issued.

The sample information sheet provided (Appendix 1) outlines circumstances in which a certificate can be issued and the limitations.

Where a pharmacist does not issue a certificate (following a consultation, or because the pharmacy has adopted a policy to not supply certificates), appropriate guidance should be provided to the person on other avenues which are available.

D. Important considerations

1. Purpose of the certificate

Certificates are used for many different purposes. A person may require a certificate for purposes such as: sick leave, compassionate leave, family/maternity leave, a compensation claim, health and welfare benefit entitlements, or evidence of illness/injury for schools/universities.

Where a certificate is required for a purpose other than as proof of leave from work, a certificate issued by a pharmacist may not be sufficient. Therefore in such cases, the person seeking a certificate should be made aware of this and be guided to seek advice from the person or organisation requiring the certificate as to whether or not a certificate issued by a pharmacist will be sufficient.

2. Conflict of interest

Pharmacists should not issue certificates for themselves or members of their immediate family.

The managing pharmacist should establish a policy regarding the issuing of certificates to pharmacy staff within the pharmacy.

3. Outside the pharmacist's scope of practice⁸

Where the pharmacist believes that the illness or injury is not within his or her area of practice, they should not issue a certificate and should advise the person to seek a consultation with a medical practitioner or other registered health practitioner appropriate for the condition.

Note that pharmacists are not able to issue a certification that a person is fit to return to work.

4. Referral to a medical practitioner

Pharmacists should be careful not to issue certificates for illnesses or injuries that may require a consultation with a doctor. Pharmacists must remember that it is against the law to issue a certificate in relation to an illness or injury that is outside the pharmacist's area of practice.

E. Issuing certificates

1. Responsibilities of the employee

It is the responsibility of the person requesting the certificate to:

- Participate in a consultation with the pharmacist;
- Provide the pharmacist with a truthful, complete and accurate description of the reasons for requesting a certificate (which should be documented by the pharmacist);
- Provide the pharmacist with any documentation relating to their request for a certificate – this may include, but is not limited to, prescriptions and previous certificates; and
- Present the reasons for requesting a certificate in a way that enables the pharmacist to make an accurate assessment of their eligibility for a certificate within the pharmacist's scope of practice.

2. Certificates for carer's leave

When a certificate is issued for carer's leave, it certifies that the member of the person's household or immediate family is ill or injured and that the person is required to care for or support the member. It is important that the pharmacist is satisfied that the member is in fact ill or injured and requires care. Therefore, in all cases the pharmacist will need to conduct the consultation with the ill or injured member and the person requesting the certificate for carer's leave.

3. Member of a person's household

As the Act does not define 'a member of a person's household', the pharmacist will need to exercise their own judgment when considering whether or not the ill/injured individual is a household member of the person requesting a certificate and what evidence is required. As a general guide they must live in the same house but the household member does not need to be related to the person.

8. The Pharmacy Guild of Australia. Reference Guide — Issuing certificates for absence from work involving minor conditions in pharmacy. November 2010. Available from: www.guild.org.au



4. General steps

The general steps involved in issuing a certificate are as follows:

1. Receive a request for a certificate.
2. Provide the person with information about the service.
3. Conduct a consultation.
4. Complete a record of consultation and make an assessment of whether or not to issue a certificate in relation to the illness or injury.
5. Complete a certificate if one is to be issued.
6. Receive payment for the service.
7. Store the necessary records in an appropriate manner.

5. Content and detail of certificates

A certificate is a legal document. Medical practitioners are subject to professional discipline and can be deregistered for issuing false, back dated or negligent certificates. This legal responsibility should reasonably apply to pharmacists when issuing certificates.

The sample templates provided at Appendixes 3 and 4 contain the required detail of certificates and specific requirements are summarised below.

Certificates must:

- Be legible;
- Be written on letterhead;
- Be in plain English – not jargon or abbreviations;
- Be based on facts known to the pharmacist – based on their own observations;
- Contain the date of the certificate;
- Contain the date the consultation took place; and
- Indicate the dates the pharmacist believes the person will be unable to attend work.

Certificates must not:

- Be backdated; or
- Be dated for a day other than that date the person presented to the pharmacist and a consultation was conducted.

6. The person's duties at work

Pharmacists should consider whether or not the injury or illness is of a nature that would prevent the person from attending work completely, or whether the person could perform light duties. Making this determination should involve consideration of the seriousness of the injury or illness, the person's job and duties, and any other considerations that are relevant to whether or not the person is fit to attend work.

7. Days off work

To determine the number of days off work that the certificate will be provided for, the pharmacist will need to take into account both the nature of the illness or injury and the person's ability to attend work and perform their duties.

The nature of illness and injury a pharmacist is qualified to issue certificates in relation to is likely to mean that certificates should not be issued for periods longer than two (2) days.⁸

Pharmacists must be careful not to issue certificates for long periods of time, particularly where the illness or injury is one that may require a consultation with a medical practitioner.

People with chronic medical conditions treated with prescription medicines should, in general, also be referred to their medical practitioner.

F. Appendixes

The sample templates provided in the Appendixes section are designed to assist:

- Pharmacists in issuing certificates that comply with legislative and professional requirements; and
- Consumers in understanding the limitations on pharmacists in issuing certificates.

While these have been developed with legal advice, PSA and PGoA are not responsible for any amendments made to the template documents nor for the manner in which the documents may be used by pharmacists for specific circumstances.

Appendix 1: Sample information sheet for people requesting a certificate

Certificates for absence from work

Important information when requesting a certificate from a pharmacist

Evidence requirements (eg. certificates) for employees to notify personal leave or carer's leave can vary depending on the relevant law, employment award, agreement or contract.

Pharmacists can only issue certificates as required by the *Fair Work Act 2009*. This means pharmacists can only issue certificates that inform your employer that you need leave because you are ill/injured or have to care for a member of your family/household who is ill/injured.

If you need a certificate for another purpose you may have to obtain this from your doctor. If you are unsure whether a certificate issued by a pharmacist will be satisfactory, ask the person or organisation that requires the certificate for more information.

Pharmacists can only issue certificates in relation to conditions (illnesses or injuries) they are professionally qualified to assess. There are some types of injuries or illnesses for which pharmacists may not issue certificates.

A pharmacist can only issue a certificate if in his/her professional opinion you are unfit for your work or you need to care for a family/household member who is ill/injured.

A pharmacist is not a medical practitioner. A pharmacist gives an opinion as a pharmacist, and not as a doctor.

A pharmacist cannot backdate a certificate. If a pharmacist issues a certificate that is untrue in any way, he/she risks prosecution for fraud or professional misconduct.

If you deliberately give a pharmacist false information relating to your health or the health of someone in your family/household you risk prosecution for fraud.

In accordance with National Privacy Principles, information collected by the pharmacist during the consultation will not be used for any other purpose or disclosed to a third party unless you provide your consent.

A consultation with a pharmacist is not intended to replace medical treatment, opinion or diagnosis. If your illness/injury persists or worsens, you should consult your doctor.

Your responsibilities:

- To give the pharmacist a truthful, complete and accurate description of your reasons for requesting a certificate;
- To participate in the consultation with the pharmacist, answer questions truthfully and give a medical history where requested;
- To give the pharmacist any documentation relating to your request for a certificate (including prescriptions and any previous certificates);
- To give the certificate issued by the pharmacist to your employer as soon as possible; and
- To ensure that the certificate has all of the information required by your employer.

The pharmacist's responsibilities:

- To provide a private and confidential environment for your consultation;
- To ask questions that help to accurately assess whether you are unfit for your work, or whether your family/household member requires your care;
- If he/she considers it appropriate, to provide you with a written certificate stating the days for which you will require leave from work; and
- To issue certificates only in relation to conditions the pharmacist is qualified to assess.

If a pharmacist says he/she cannot issue you with a certificate, this is not a decision that has been made lightly.

If a pharmacist is unable to issue you with a certificate and you believe you are unfit for your work, you should seek an opinion from your doctor.

Appendix 2: Sample pharmacist's record of consultation in relation to a request for a certificate

1	Date of consultation	
2	Full name and address of the person seeking a certificate	Name: Address:
3	The person is seeking a certificate for:	<input type="checkbox"/> Personal leave <input type="checkbox"/> Carer's leave
4	If the person is seeking a certificate for carer's leave, are you satisfied that it is in relation to a member of the person's immediate family or household?	<input type="checkbox"/> Yes <input type="checkbox"/> No ↓ (If 'yes', record what evidence was obtained or sighted)
5	If the certificate is for carer's leave, the member's details are:	<input type="checkbox"/> Immediate family <input type="checkbox"/> Household member Member's name:.....
6	What is the illness/injury as described by the person/member?	
7	What are the visible symptoms of the person's/member's illness/injury?	
8	When did the symptoms first arise?	
9	Has the person/member consulted a doctor in relation to the illness/injury?	<input type="checkbox"/> Yes <input type="checkbox"/> No
10	Is there a prior certificate or prescription to be filled? If so, what are the details and date of the documentation?	<input type="checkbox"/> Yes <input type="checkbox"/> No ↓ (If 'yes', record details and date of documentation)
11	What medication is being provided by you (the pharmacist) for the person's/member's illness/injury?	
12	What amount of time has the person/member been off work?	
13	What amount of time does the person/member believe that they need off work?	
14	Within your capacity as a pharmacist and based on the available information, are you satisfied that the person is unfit for work, or that the member is sufficiently ill/injured to require care?	<input type="checkbox"/> Yes <input type="checkbox"/> No ↓ (If 'yes', record the dates covered on the certificate) From / / To / /
15	Have you referred the person to his/her general practitioner, if required?	<input type="checkbox"/> Yes <input type="checkbox"/> No

The person requesting a certificate should be:

- Advised you are not a medical practitioner and any opinion you have provided has been provided as a pharmacist, and not as a doctor;
- Reinforced that the consultation was conducted for the purpose of assessing the person's fitness to work and is not intended to replace medical treatment, opinion or diagnosis; and
- Advised that if the illness/injury persists or worsens, the person/member should see their general practitioner.

Consultation conducted by:
(Name of pharmacist)

Signed: Date: / /
(Signature of pharmacist)



Appendix 3: Sample template of a certificate for personal leave

Certificate for personal leave

This certificate is to certify that

on / /, **Mr/Ms/Miss** (*circle one*) (insert full name)

of

..... (insert address)

presented at this pharmacy.

In my professional opinion, based on the information provided to me at the time, he/she (*circle one*)

will be unfit to attend work for the period commencing / / until / /

This opinion was provided in my capacity as a pharmacist for the purpose of informing the employer of the named person that he/she is unfit for work due to illness/injury.

This certificate was provided by

..... (.....)

(Pharmacist's name)

(Registration number)

in accordance with the evidence requirements under section 107(3) of the *Fair Work Act 2009* at

.....

.....

.....

(Pharmacy address)

OR

(Pharmacy stamp/sticker)

Signed:

Date: / /

Appendix 4: Sample template of a certificate for carer's leave

Certificate for carer's leave

This certificate is to certify that

on / /, **Mr/Ms/Miss** (*circle one*) (*insert full name*)

of

..... (*insert address*)

presented at this pharmacy in relation to a member of their immediate family/household (*circle one*),

Mr/Ms/Miss (*circle one*) (*insert member's name*) ('the member').

The member also attended the consultation with me.

In my professional opinion, based on the information provided to me at the time, the member will require

Mr/Ms/Miss (*circle one*) (*insert carer's full name*)

to provide care/support for the period commencing / / until / /

As a result of this, **Mr/Ms/Miss** (*circle one*) (*insert carer's full name*)

will be unable to attend work for the period detailed above.

This opinion was provided in my capacity as a pharmacist for the purpose of informing the employer of the named carer that his/her immediate family/household member requires his/her care/support due to illness/injury.

This certificate was provided by

..... (.....)

(Pharmacist's name)

(Registration number)

in accordance with the evidence requirements under section 107(3) of the *Fair Work Act 2009* at

.....

.....

.....

(Pharmacy address)

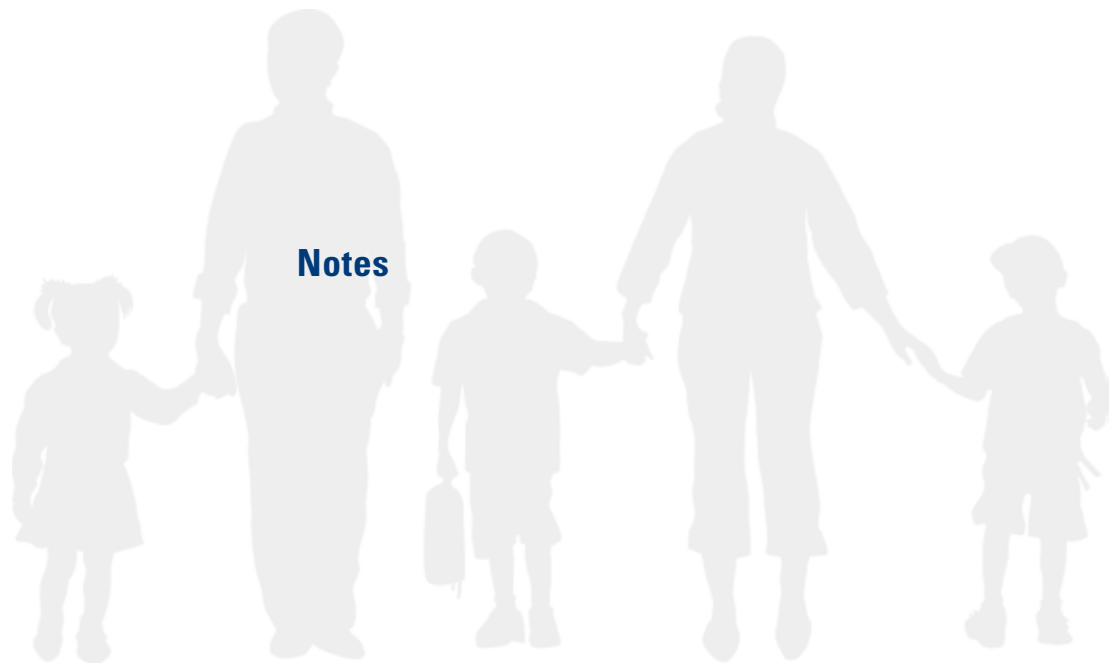
OR

(Pharmacy stamp/sticker)

Signed:

Date: / /

Notes





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