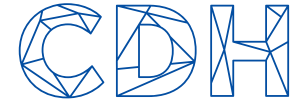


# Employment Law

ALERT | 19 November 2024



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**EMPLOYMENT LAW  
ALERT**

## A new era for traditional healers: A step towards formalisation and regulation

In a significant step towards formalising the practice of traditional healing in South Africa, the Traditional Health Professional Regulations, 2024 (Regulations) were published in the *Government Gazette* for comment on 21 June 2024. The Regulations aim to formalise and professionalise traditional health practices in South Africa and are set to be implemented under the Traditional Health Practitioners Act 22 of 2007 (THPA) to ensure that traditional health practices are standardised and practiced safely across the country.

Under the new framework, traditional healers will no longer be operating in a legal grey area. Once registered with the Interim Traditional Health Practitioners Council of South Africa (Council), practitioners will be officially recognised as traditional health practitioners.

While the THPA has been in existence since 2007, the Regulations are the key to bringing the act into full operation, with an emphasis on establishing clear guidelines for those seeking to practice traditional health.

### Key requirements for traditional health practitioners

To practice legally, individuals must:

- **Register with the Council:** Traditional healers must complete an application form and pay the required fees to register with the Council. Only those who are officially registered will be recognised as traditional health practitioners under the law.
- **Undergo required training:** Traditional health practitioners must undergo training in one of the following categories of traditional health practices, to ensure that practitioners possess the necessary knowledge and experience to provide safe and effective care:
  - Divination
  - Herbalism
  - Traditional birth attendant practices
  - Traditional surgical practices (including circumcision)
- **Medical certification:** Only those who meet the standards set out in section 21 of the THPA are authorised to issue and sign medical certificates. This provision stipulates that "*no person may practice as a traditional health practitioner within the Republic unless he or she is registered in terms of the [THPA]*". This addresses a critical issue outlined in section 23(2) of the Basic Conditions of Employment Act 75 of 1997 (BCEA) which requires medical certificates to be issued by a registered medical practitioner or someone certified to diagnose and treat patients. Under the new regulations, traditional healers who are not registered or recognised by the Council cannot issue legitimate medical certificates.

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## A new era for traditional healers: A step towards formalisation and regulation

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To ensure the safety, efficacy and quality of traditional healthcare, the Regulations specify that anyone wishing to practice as a traditional health practitioner must meet a minimum age requirement and possess a certain level of general education. The Regulations also outline the necessary training required for each category of traditional health practice.

Once all requirements are met, the Council's Registrar will add the practitioner's name to the official Register and issue a certificate of practice. Only then will the individual be authorised to practice legally.

Unregistered practitioners face significant limitations under section 44 of the THPA. These individuals are prohibited from holding appointments in any establishment, institution or body, underscoring the importance of registration and regulation to maintain the quality and safety of traditional health services.

### The legality of medical certificates

The issue of medical certificates is one of the most pressing concerns addressed by these new Regulations, and is one that employers must take cognisance of. In line with section 23(2) of the BCEA, medical certificates issued by traditional healers who have not met the registration requirements of the THPA will not be legally recognised. Therefore, in order for a traditional healer's medical certificate to be considered legitimate, they must be registered with the Council and comply with the requirements outlined in the THPA.

Employers must be cognisant of this when dealing with proof of incapacity in their sick leave policies and sick leave management systems. Importantly, only registered traditional healers who are properly registered with the Council can issue legally valid medical certificates. Otherwise, employers may reject non-compliant certificates.

**Phetheni Nkuna, Thato Makoaba and Khutso Mongadi**

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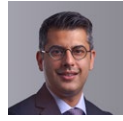
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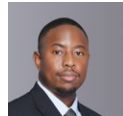
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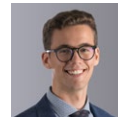
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**BBBEE STATUS:** LEVEL ONE CONTRIBUTOR

Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

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