

# Certificates Issued by Doctors: Legal Aspects & Ethical Challenges

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**Abstract:** *Medical certificates may be required to claim certain health insurance benefits, to obtain health benefits from an employer, income benefits, or some other legal benefits like exemption of court attendance in advanced pregnancy, deferment, or even commutation of a death sentence on medical grounds. To be legally valid, doctors must follow the guidelines prescribed by the National Medical Commission and other relevant laws. In cases of medico - legal reports, doctors must not examine the person and issue the certificate without a requisition letter from a competent authority. A copy of the certificate must be kept with the issuing doctor and confidentiality must be maintained. Any violation of this may attract ethical and legal actions against the erring doctor.*

**Keywords:** Medical certificate, Medico - legal reports, Unethical practice, Indian Penal Code, Code of ethics

## 1. Introduction

A certificate is a written document containing an authentic statement especially as to the truth of something. A doctor may issue two different types of certificates: Medical Certificates and Medico - Legal Certificates. A medical certificate may be defined as a written statement from a registered medical practitioner or another medically qualified health care provider which attests to the result of a medical examination of a patient<sup>1</sup>. Some examples are Birth Certificates, Death Certificates, Medical Illness Certificates, Medical Fitness certificates, Age Certificates, disability certificates, pregnancy certificates, etc. Here, authorization from a competent authority like a police investigating officer or a magistrate is not required, the patient or patient party may go direct and get the certificate from a doctor. A nominal amount of rupees may be charged for issuing such certificates except in cases of death certificates which must be issued free of cost as per Registration of birth & death, 1969 act.

Medico - legal certificates are written documents prepared by registered medical practitioners for legal proceedings. Doctors issue medico - legal certificates on a requisition from a police investigating officer or a magistrate<sup>2</sup>. Here, such prepared certificates must also be given only to the concerned police officer or magistrate free of cost. Some examples of medico - legal certificates are Drunkenness Certificates, Post - mortem Certificates, Sexual Offences Examination Certificates, etc. Popularly medico - legal certificates are also known as medico - legal reports.

Though we consider a medical certificate and a medico - legal report as two distinct entities, in some conditions there may be an overlapping of these two. However, the purpose will be the same to prove or disprove a fact in an issue.

### Ethical Aspects of Medical Certificates:

In India, it is governed by the rules framed by the National Medical Commission under the Code of Medical Ethics Regulations, 2002 (amended up to 8<sup>th</sup> Oct' 2016) vide Chapter 1 clause No.3.3 and Chapter 7 clause No.7. Under

Chapter 1 clause no.3.3 there is a clear guideline that the certificate shall be prepared as per the format given in Appendix 2. Moreover, the registered medical practitioner should maintain a register of medical certificates mentioning the full details of the certificate issued. The certificate thus issued must also contain at least one identification mark, signature, and/or thumb impression of the patient.

In cases of illness certificates, the treating doctor must examine the patient by himself and the certificate must also contain the exact nature of the illness and probable period of expected absence if you can justify the probable course of the disease or ailment. The doctor must never issue such an illness certificate if he is not trained to treat or his specialization is different. It is always better not to issue such certificates for more than 15 days at a time.

Another very important medical certificate is the cause of death certificate. A doctor must issue a death certificate only when he has attended to the patient while he was alive and he attended to the patient within 14 days before death, he himself is satisfied with the reason for death. The physician who is treating the patient for a minor illness or disease should not issue a cause of death certificate. In cases of medico - legal patients or if there is any suspicion, then the doctor should not issue the cause of death certificate.

If it is not followed properly then such a certificate may be declared invalid. A copy of the certificate must be kept with the issuing doctor and confidentiality must be maintained as per sec.2.2 (Code of Medical Ethics Regulations, 2002). All medical documents must be maintained at least for a period of 3years (sec.1.3.1 of Code of Medical Ethics Regulations, 2002)<sup>3</sup>. The issuing doctor must maintain a separate register for medical certificates. A list of medical certificates, reports, documents, notifications, etc. issued by doctors for the purpose of various acts and administrations is given in Annexure 4 of the regulation. If any registered medical practitioner has violated this act, it may be considered an unethical practice and his name may be deleted from the medical register for a prescribed period of time or permanently as a disciplinary action.

**Legal Aspects of Medical Certificates: -**

Very often physicians are required to issue medical certificates for the benefit of patients. It becomes an integral responsibility of a health care provider. Here, patients and doctors must not forget that the doctor has to act on behalf of the authority requiring the certificate, not for the patient. So, writing a certificate involves a different relationship.

To be a legally valid document, it must be written in a proper format following the prescribed rules and regulations. There should not be any attempt to erase or modify any entry. If there is an unavoidable correction or overwriting, then it must be done neat and clean without any scribbling and it must be signed with the time and date.

The law will recognize medical certificates and reports only when issued by a registered medical practitioner. When required the issuing doctor may be summoned to the court to testify under oath and he may be cross - examined by the defense lawyer.<sup>4</sup> Issuing a false or backdated certificate is a punishable offense as per sec.197, IPC which attracts may attract imprisonment for 7yrs with or without a fine. This is also equal to the punishment for giving false evidence which is defined under Sec.193, IPC. Moreover, patients using such a false certificate is also punishable under sec.198, IPC, the quantum of punishment is the same as stated above. Issuing a false medical certificate may be considered a forgery and it may invite other sections such as Sec.465, IPC (punishment for forgery - imprisonment of either description for a term which may extend to two years, or with fine, or with both), Sec.468, IPC (forgery for purpose of cheating - imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine), Sec.471, IPC (Using as genuine a forged - shall be punished in the same manner as if he had forged), Sec.420, IPC (Cheating - shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine).

In the case of a death certificate, a doctor is legally bound to issue the death certificate, if the doctor has attended to the patient during his last illness and if he expired, without charging any fees (as per Sec.10 (3) of Registration of Births & Deaths Act, 1969) <sup>4</sup>. The certificate must be issued following the WHO guidelines i. e. "International Form of Medical Certificate of Cause of Death".<sup>5</sup> If the doctor is negligent or fails to do so then a fine of Rs.50 may be imposed, Sec.23 (3) of Registration of Births & Deaths Act, 1969. A death certificate may be asked for by relatives even in the case of a stillborn or premature newborn and the attending doctor can issue a death certificate. However, if the doctor is suspicious about the cause of death then the matter must be informed to the nearest police station and the cause of death certificate must not be issued. In all medico - legal cases also doctors must not issue death certificates. In such circumstances, the police investigating officer will hold an inquest and the cause of death will be ascertained after a post - mortem examination.

In cases of medical reports, doctors must be very careful and without a valid requisition order from a competent authority, the examination shouldn't be done. For a medico - legal autopsy, consent is not required from the relatives. In other

cases, consent has to be obtained because examination without it is regarded as an assault in law. Before obtaining the consent, details of the examination, purpose, and probable outcome of the examination must be explained clearly to the patient. In cases of females, the examination should be done by a lady doctor as per Section 53 (2) Cr. P. C). However, if a lady doctor is not available then an examination can be conducted by a male doctor in the presence of a female attendee. In general, a medico - legal report has three parts – 1<sup>st</sup> Part is known as the Introduction or Preamble, 2<sup>nd</sup> Part is known as the Examination or Observation, and the last 3<sup>rd</sup> Part is known as the Opinion or Inference <sup>6</sup>. The report must be concise, and clear, and as far as possible use of technical terms must be avoided. It must be prepared in at least two copies, the original copy must be forwarded to the investigating police officer or magistrate and one copy must be retained for future reference. Such an issued medico - legal report will be accepted as evidence only when the doctor attends the court and testifies to the facts under oath.

**2. Discussion**

All medical certificates and reports issued by a qualified registered medical practitioner will be admissible in a court of law as per Section 3 of the Indian Evidence Act, 1872 which was amended in 1961.

Very often doctors are asked to issue medical certificates for various purposes. Sometimes, doctors are urged by relatives or friends to issue false certificates to avail medical leaves, to claim financial claims, compensations, or to get false insurance claims. Doctors may also be lured to such unethical and illegal works by bribing huge amounts of money. Now and then we come across incidents of medical practitioners issuing fake certificates. Medical Illness and Fitness Certificates are often reported in such cases. In one such incident, two senior private doctors from Gurgaon were convicted by the Honorable Supreme Court for issuing a medical illness certificate of 527days to a former Haryana MLA without any ailment<sup>7</sup>. False medical certificates delay the court procedure and there can be a miscarriage of justice. One lady doctor from a government hospital in Tamil Nadu is facing actions taken by the Tamil Nadu Medical Council for issuing a fake "Life Certificate" who had passed away already. In another incident, Vinoth Kumar from Bangalore filed a police case with the Tamil Nadu Medical Council doctor Badriprasad conspired with one Narasimhan and issued "life certificates" to two women, Sabitha. J and Shylaja Jayasurya, a year after the Bruhat Bengaluru Mahanagar Palike (BBMP) issued their death certificates<sup>8</sup>.

As there was rampant violation while issuing illness or injury certificates, the Delhi Medical Council has given directions that medical certificates must be written on the doctor's letterhead, and should not contain any abbreviations or medical jargon. The certificate should be clear and legible. The original copy must be given to the patient and a duplicate copy of it will be kept at least for three years from the date of issue as a record, it added<sup>9</sup>.

### 3. Conclusion

Medical certificates and medico - legal reports are legal documents and the issuing doctors must be aware of the legal implications of signing such documents. Without an OPD examination never issue a medical certificate. Doctors must not issue backdated certificates or never give a fitness certificate on an advanced date or backdate. In the same way, never issue a medical fitness certificate on an advanced dated or backdate. At one time it is better not to issue more than 15 days and when necessary ask the patient to come again after 15 days and re - issue it.

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