

ISSUING OF MEDICAL CERTIFICATES

Doctors will be aware that medical notes are normally submitted by defendants in criminal proceedings as justification for not answering bail. Medical notes may also be submitted by witnesses who are due to give evidence and jurors.

If a medical certificate is accepted by the court, this will result in cases (including contested hearings and trials) being adjourned rather than the court issuing a warrant for the defendant's arrest without bail. Medical certificates will also provide the defendant with sufficient evidence to defend a charge of failure to surrender to bail.

However, a court is not absolutely bound by a medical certificate. The medical practitioner providing the certificate may be required by the court to give evidence. Alternatively the court may exercise its discretion to disregard a certificate, which it finds unsatisfactory: *R. v Ealing Magistrates Court Ex p. Burgess (2001) 165 J.P. 82.*

Circumstances where a court may find a medical certificate to be unsatisfactory include:

1. Where the certificate indicates that the defendant is unfit to work (rather than to attend court);
2. Where the nature of the defendant's ailment (e.g. a broken arm) does not appear to be capable of preventing his attendance at court;
3. Where the defendant is certified as suffering from stress/anxiety/depression and there is no indication of the defendant recovering within a realistic timescale.

It therefore follows that as a minimum standard a medical certificate should set out:

1. The date on which the medical practitioner examined the defendant;
2. The exact nature of the defendant's ailment;
3. If it is not self-evident, why the ailment prevents the defendant from attending court;
4. An indication as to when the defendant is likely to be able to attend court, or a date when the current certificate expires.

Medical practitioners should be aware that when issuing a certificate to a defendant in criminal proceedings they make themselves liable to being summonsed to court to give evidence about the content of the certificate, and may be asked to justify their statements.