

PSA advises against medical certificates

PSA has advised pharmacists not to issue medical or sick certificates to customers after receiving formal legal advice outlining the ramifications that doing so would mean for pharmacists.

PSA sought legal advice in response to changes to law caused by the 'Work Choices' legislation, amending the *Workplace Relations Act 1996*, which states that 'registered health practitioners' may issue medical certificates for sick leave if in the registered health practitioner's opinion the person is unfit for work.

The term registered health practitioners now includes pharmacists. However, the position of pharmacists and their ability to issue certificates is not clarified by the legislation. Health practitioners may only issue a certificate where it is within their area of practice and expertise, and where it is contained in their conditions of registration. There is no specific power for pharmacists to issue certificates in their terms of registration, so doing so would fall outside this legal framework.

PSA's advice is that if pharmacists did issue sick certificates, they would be acting in a manner inconsistent with the provisions of the *Workplace Relations Act 1996* and accompanying regulations and placing themselves at legal risk by acting outside their area of practice and professional competence. As such, they may not be protected by their professional indemnity insurance.



The full text of PSA's statement appears below.

Pharmacists may be aware of the recent 'Work Choices' amendments to the *Workplace Relations Act 1996*. The amended legislation states that 'registered health practitioners' may issue medical certificates for sick leave if in the registered health practitioner's opinion the person is unfit for work. The definition of 'health practitioner' has been broadened and now includes pharmacists. It appears that while health practitioners are allowed to issue medical or sick certificates under the Act and Regulations this can only be done in relation to their area of practice, and where the terms of their professional registration permit them to do so. This right of pharmacists to issue sick certificates is still not clear under the new legislation.

PSA has sought and received legal advice on whether the 'Work Choices' amendments to the *Workplace Relations Act 1996* permit pharmacists to issue sick certificates. PSA has been advised that:

- Under the Act and Regulations health practitioners can only issue sick certificates where this is within their area of practice and expertise, and where permitted to do so

by the conditions of their registration;

- Under the terms of registration for pharmacists, there is no express power to issue medical certificates and issuing sick certificates would fall outside a pharmacist's area of practice and expertise because this is not covered by the *Competency Standards* and *Professional Practice Standards* that apply to pharmacists;
- Accordingly, notwithstanding the broader definition of "health practitioner" within the Act to include pharmacists, the right of health practitioners to issue sick certificates does not extend to pharmacists.

PSA's advice is that if pharmacists did issue sick certificates, they would be acting in a manner inconsistent with the provisions of the *Workplace Relations Act 1996* and accompanying Regulations and placing themselves at legal risk by acting outside their area of practice and professional competence. As such, they may not be protected by their professional indemnity insurance.

On the basis of this advice, PSA recommends that if pharmacists are asked for a medical certificate by a customer this request be refused on the basis of advice they have been provided. Pharmacists who ignore this advice and issue a medical or sick certificate do so at their own risk. Pharmacists should consider whether they will be covered by their insurance arrangements if they choose to issue medical certificates and they may also be breaching their terms of registration if they choose to do so.

The amendments to the *Workplace Relations Act 1996* are recent and it is possible that the whole issue of who can or should be entitled to issue sick certificates will no doubt receive further attention within the health industry, and within government. PSA will be monitoring the situation and if there are any changes to legislation or the way it is applied which affects the advice set out above, PSA will advise pharmacists at that time. PSA has sought an opinion from the insurer, Pharmaceutical Defence Limited, but this has not been received as yet.

FIP recognises Australians for fellowships



John Ware

The International Pharmacy Federation (FIP) has awarded its prestigious fellowships to two Australian pharmacists, Past National President of PSA John Ware and PSA NSW Branch President and National Councillor Professor S.I (Charlie) Benrimoj. Six pharmacists received FIP Fellowships for 2006, while Turkey's Professor Attila Hincal was awarded the FIP Lifetime Achievement in the Pharmaceutical Science Award.