

# HR Examiner

*Examining practical HR issues business owners  
and managers encounter every day*

## Sick About This

Arlene Vernon

I received a call from a client who questioned whether or not they could call a doctor's office to verify the validity of a doctor's note she received from an employee. The client suspected that the note was not legitimate and wanted to verify its authenticity.

My gut reaction was that calling a medical office regarding a patient could violate HIPAA or the patient's confidentiality. But then I thought, all she's doing is verifying that a doctor's note from this particular clinic was actually written by someone in the clinic.

Since I was on the fence, I decided to see what the Internet had to say about this. So I did the usual google search. Here's where my surprise occurred.

The first items that appeared from the search were not HR or legal dialogues on the ethics related to double checking the validity of an employee's doctor's note.

The first items were lists of websites where you could purchase and/or download fake doctors' notes that looked legitimate enough to fool employers and schools. And not only were there forms, but a myriad of articles on how to be effective in cheating the system.

How dare employers want to hold employees accountable for their attendance? So here's the perfect solution! Cheat the system. One site listed the reasons why you need these notes (this list is taken directly from one article):

- To avoid HR policies
- To be positioned on a light duty
- To keep up the personal life
- When you just do not want to go
  
- When illness is treated at home

At least the last one is a legitimate reason. That makes me feel better.

But the most important issue brought up by one author is whether or not the fake note provider offers a "call verification" feature. This service provides people to answer the phone and verify the legitimacy of the note when an employer calls to double check. It's definitely worth the extra money to pay for this special service. Don't you think? And there's a 100% money back guarantee, too.

So what's an employer to do? According to employment law attorney Mary Rice of Fafinski, Mark and Johnson:

An employer has three options, depending on the circumstances.

1. Fax the doctor's note to the clinic and request verification by the health care provider who signed the note, or by their assistant. However, because, depending on what the note says, you may be releasing private information on the employee by faxing it to the clinic, you should have an authorization signed by the employee allowing you to do so.

2. Call the clinic to ask if the employee was seen there. Due to HIPAA constraints, the clinic will probably not respond unless you have a signed release from the employee. Additionally, the employee could have obtained the note without being in the records as having been seen for treatment, so a response that the employee has not been seen may not be accurate.
3. If you are subject to the FMLA and the absence could potentially be covered, request completion of a medical certification. The form includes dates of treatment.

Whichever option you use, be sure to obtain a written response from an identified person. It's best that all communication be written, in order to avoid any claim that you obtained information not allowed by the ADA or Minnesota Human Rights Act, and in order to have documented proof. If the false doctor's note ever becomes an issue at an unemployment hearing or a discriminatory discharge case, your proof is in the documentation and witnesses with knowledge. If you decide that you may want to use options (1) or (2), your personnel policies should be amended to require signed authorizations.

As you can see, the answer isn't simple. You can try to get information from the medical office to validate the documentation, but you will need to communicate with the employee that you're questioning the validity of their document – especially to get a signed release. It's not always easy managing employees, but it's easier knowing that you're doing what's right for your organization.

You can reach Mary Rice at: [Mary Rice at FMJ](#):

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**Informal survey:** Now I'm curious how prevalent this is. If you've ever received and/or verified a fake letter, please email me.

## About Arlene Vernon

Arlene has provided HR consulting and management training services to over 300 organizations since starting HRx, Inc. in 1992.

If you're seeking a hands-on, practical HRxpert to assist your organization with employee relations, policy development, strategic HR activities or fun/doable management training, call on Arlene – Your HRxpert.

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