



ASPECTOS ÉTICOS DE LA PRESCRIPCIÓN DE REPOSO MÉDICO

ASAMBLEA COLMED 2025

Rodrigo A. Salinas
Hospital del Salvador

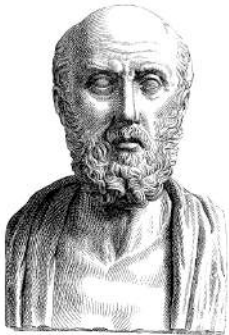




Conflicto de Intereses

- ✓ Soy neurólogo y, entre los pacientes que atiendo, una proporción relevante de ellos no está en condiciones de trabajar por razones de enfermedad; sólo la menor parte de ellos, sin embargo, requiere que le sea extendida una “licencia médica”.
- ✓ No ejerzo en forma privada y mi salario es independiente del número de pacientes que atiendo.
- ✓ Creo firmemente que el trabajador que por enfermedad debe guardar reposo laboral, tiene derecho a un subsidio por discapacidad.

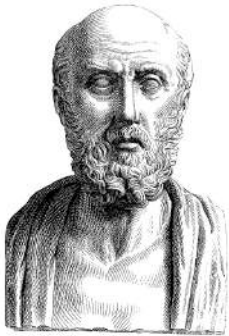




Hipócrates,
citado por Sprague A.
En: JOGNN,
33,542-549; 2004.

☞ “El **reposo**, en la medida que hay dolor, es un gran restaurador de los trastornos del organismo”.





Hipócrates,
citado por Sprague A.
En: JOGNN,
33,542-549; 2004.



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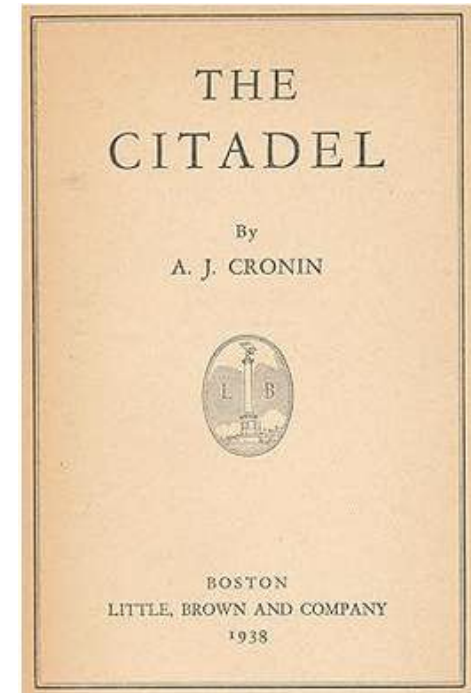
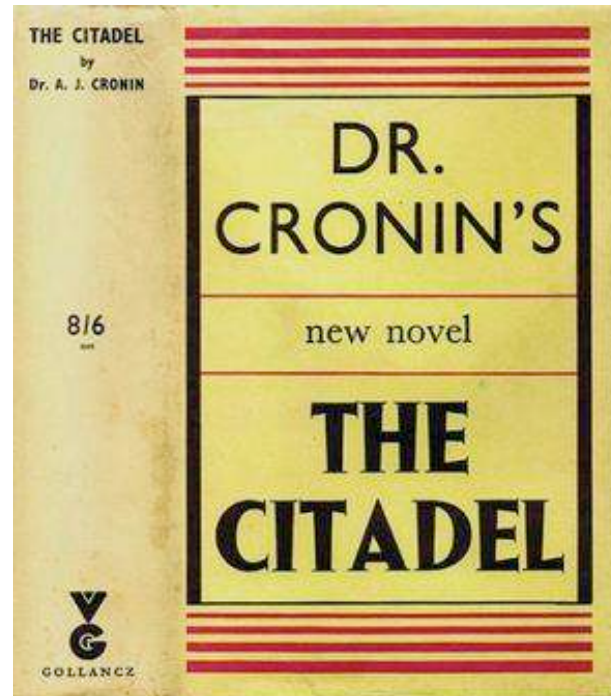


“Si todo el cuerpo descansa mucho más de lo normal, no hay un aumento inmediato de la fuerza. De hecho, si a un largo período de inactividad le sigue una repentina vuelta al ejercicio, se producirá un evidente deterioro”.

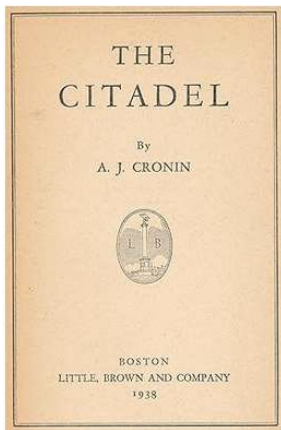




Archibald J. Cronin
(1896-1981)



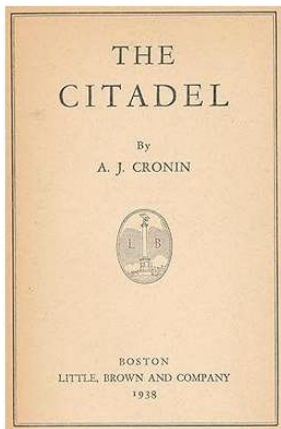
Cronin A. (1937)
The Citadel



Cronin A. (1937)
The Citadel

It gave Andrew a thrill of pleasure to see himself identified, already, with his room, which though not large had a good desk and a sound leather couch for examinations. He was flattered too, by the number of people waiting on him—such a crowd, in fact, that he thought it better to begin work immediately without first making himself known, as he had intended, to Doctor Urquhart and the dispenser, Gadge.



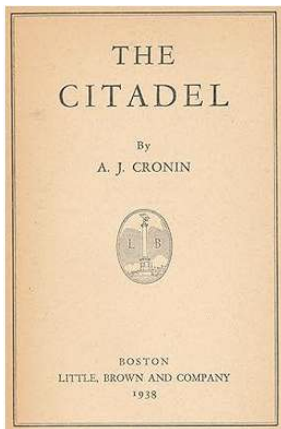


Cronin A. (1937)
The Citadel

Seating himself, he signed for his first case to come in. This was a man who asked simply for a certificate adding, as a kind of afterthought, beat knee. Andrew examined him, found him suffering from beat knee, gave him the certificate of incapacity for work.

The second case came in. He also demanded his certificate, nystagmus. The third case: certificate, bronchitis. The fourth case: certificate, beat elbow.





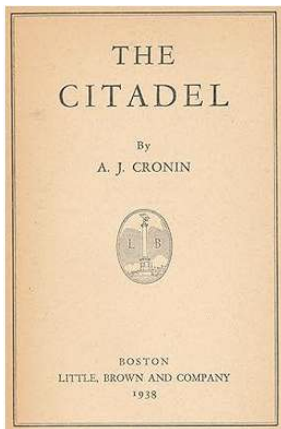
Cronin A. (1937)
The Citadel

Andrew got up, anxious to know where he stood. These certificate examinations took a great deal of time. He went to his door and asked:

“How many more men for certificates? Will they stand up, please.”

There were perhaps forty men waiting outside. They all stood up. Andrew reflected quickly. It would take him the best part of the day to examine them all properly—an impossible situation. Reluctantly, he made up his mind to defer the more exacting examinations until another time.





Cronin A. (1937)
The Citadel

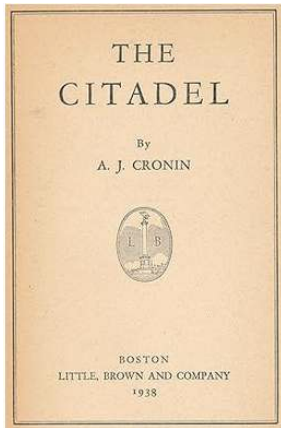
The crowd, if anything, was larger than at the morning surgery. And the first patient to enter was a great lump of a man, rolling in fat, who smelled strongly of beer and looked as if he had never done a full day's work in his life. He was about fifty and had small pig eyes which blinked down at Andrew.

“Certificate,” he said, without minding his manners.

“What for?” Andrew asked.

“’Stagmus.” He held out his hand. “The name’s Chenkin. Ben Chenkin.”





Cronin A. (1937)
The Citadel

The tone alone caused Andrew to look at Chenkin with quick resentment. Even from a cursory inspection he felt convinced that Chenkin had no nystagmus. He was well aware, apart from Gadge's hint, that some of these old pitmen "swung the lead on 'stagmus," drawing compensation money to which they were not entitled for years on end. However, he had brought his ophthalmoscope with him this evening. He would soon make sure. He rose from his seat.

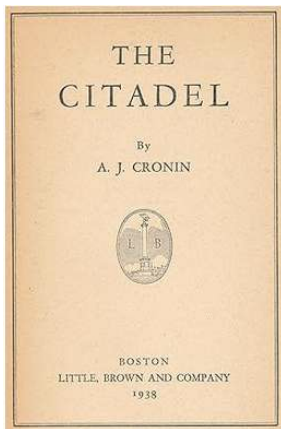
"Take your things off."

This time it was Chenkin who asked: "What for?"

"I'm going to examine you."

Ben Chenkin's jaw dropped. He had not been examined, so far as he could remember, in the whole of Doctor Leslie's seven years of office. Unwillingly, sulkily, he pulled off his





Cronin A. (1937)
The Citadel

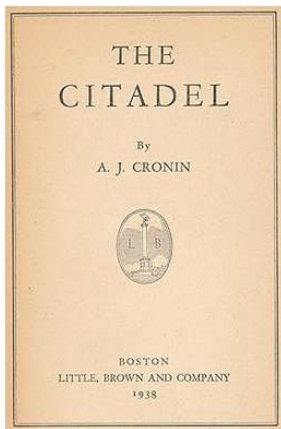
“ Look what he’s done on us ! Let us in, will ye ! Hey ! What’s the meanin’ of this ? ” He flourished the certificate in Andrew’s face.

Andrew affected to read the slip. It said, in his own handwriting: *This is to certify that Ben Chenkin is suffering from the effects of over indulgence in malt liquors but is perfectly fit to work. Signed A. Manson, M.B.*

“ Well ? ” he asked.

“ ’Stagmus,” shouted Chenkin. “ Certificate for ’stagmus. You can’t play the bloody fool on us. Fifteen year us got ’stagmus ! ”



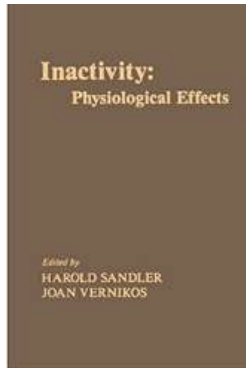


Cronin A. (1937)
The Citadel

The minute he was gone Gadge came out of the dispensary and shuffled across to Andrew. He rubbed his hands with melancholy delight.

“You know who that was you just knocked off? Ben Chenkin. His son’s a big man on the Committee.”





Sandler, H., (1986)
Inactivity:
Physiological effects

☞ “Antes del siglo XIX, los enfermos rara vez se acostaban hasta que estaban demasiado débiles para ponerse de pie o sentarse. Esta aversión al reposo en cama se debió principalmente **al temor de los trabajadores a perder ingresos críticos para la supervivencia familiar**”.





BMJ Journals

Occupational &
Environmental Medicine

Whitaker D.

Occ & Env Med 2001.
58 (6): 405 - 410

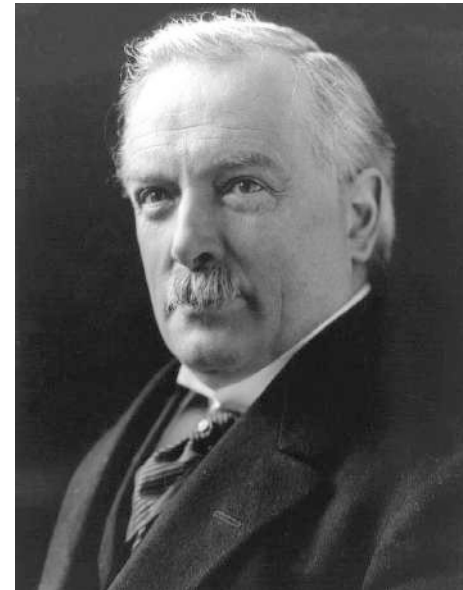
Santiago, enero 2023

☞ **“Ausencia por enfermedad**
(sickness absence) o, definida de modo
más preciso, ausencia del trabajo que
es atribuible a la enfermedad por el
empleado y aceptada como tal por el
empleador”.

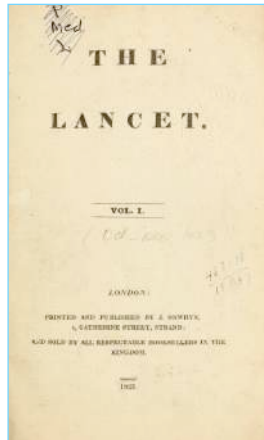




Otto von Bismarck
(1815 - 1898)



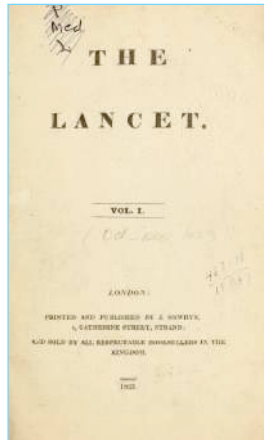
David Lloyd George
(1863 - 1945)



Gordon W, (1912)
Lancet . 180:1679-81

7. We must accept the obligatory duty of filling in various forms (keeping them always with us) and returns, and of correspondence and replies to officials whose sole duty is to exact such correspondence from us. These clerical incubuses will swallow up the little leisure and energy we have left at the day's end under this appalling contract.

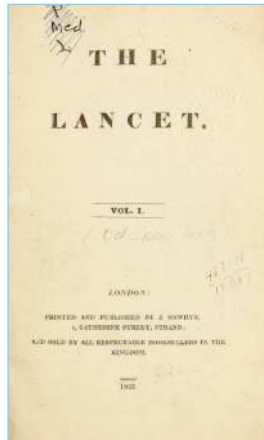




11. We must give free certificates, on which the following reflections should be made. (a) Medical certificates as to fitness or unfitness, under a contract system enforced by law, are legal instruments carrying many possible legal and financial consequences, not only to the beneficiary, to his employees, and to the State, but to the writers of those legal instruments. (b) It is quite beyond reason that payments to a doctor adjusted strictly for medical treatment should be made to include remuneration for personal guarantees and legal obligations which form no part of medical treatment; that the giving of these “expert” guarantees, with their legal and penal potentialities on the liberty, time, and pockets of the givers, should be exacted by law without payment for the risks involved.

Gordon W, (1912)
Lancet . 180:1679-81





(c) The only conditions under which we could safely accept such an obligation at all would be on a system of payment per attendance on a tariff, such payments being calculated to include this obligation, and accompanied by guarantees for full payment for any consequential results on our time or purses, expressly guaranteed by the State, for whose benefit and safeguard these certificates are required.

Gordon W, (1912)
Lancet . 180:1679-81





Arturo Alessandri.
(1815 - 1898)





LEY No 4054

Seguros de enfermedad, invalidez y accidentes del trabajo

Art. 14. — La Caja proporcionará a sus asegurados los siguientes beneficios:

a) Asistencia médica y provisión de todos los medios terapéuticos necesarios, de que comenzarán a gozar desde el primer día de la enfermedad. Si el médico ordenare la hospitalización del enfermo por imposibilidad de atención domiciliaria, especialmente en afecciones contagiosas o que requieren vigilancia técnica especial, se cumplirá lo ordenado salvo que el enfermo protestase de dicha determinación y el Consejo de la Caja diere lugar a la reclamación.

Ley 4.054, promulgada el 8 de septiembre de 1924.



b) Un subsidio en dinero mientras dure su incapacidad, al asegurado que tuviere familia que viviere con él y a sus expensas, que se le pagará desde el quinto día de la enfermedad, pudiendo reclamar él de este tiempo si la enfermedad se prolongare por más de una semana.

Durante la primera semana el subsidio será igual al monto del salario, sueldo o renta que el asegurado hubiere devengado en la semana anterior, de la mitad en la segunda semana, y de la cuarta parte en los periodos siguientes.

Ley 4.054, promulgada el 8 de septiembre de 1924.



Informe anual
SUSESO 2023

Santiago, marzo 2024

☞ “**La licencia médica** es un importante instrumento de la seguridad social chilena que entrega **protección al empleo e ingreso** de trabajadores y trabajadoras cuando enfrentan una enfermedad, permitiendo así su recuperación y posterior reincorporación al trabajo. Además, le permite al trabajador(a) recibir un subsidio por incapacidad laboral (SIL), cuando corresponda, cuya finalidad es reemplazar la remuneración o renta que deja de percibir mientras está enfermo”.





Informe anual
SUSESO 2023

Santiago, marzo 2024

Cuadro 6. Número de profesionales de la salud, LME autorizadas y gasto en SIL estimado según tramo de LME emitidas, año 2023.

	N° de profesionales	% de profesionales	LME autorizadas	% LME autorizadas	N° días promedio por licencia	% Gasto SIL estimado
Tramo 1: menos de 1.600 LME	48.090	99,1%	6.419.059	88,8%	13,6	88,6%
Tramo 2: entre 1.600 y 2.499 LME	328	0,7%	550.899	7,6%	13,9	7,2%
Tramo 3: entre 2.500 y 4.999 LME	84	0,2%	230.346	3,2%	17,5	3,6%
Tramo 4: 5.000 LME o más	6	0,01%	28.617	0,4%	24,9	0,6%
Total	48.508	100%	7.228.921	100%	13,8	100%



Informe anual
SUSESO 2023

Santiago, marzo 2024

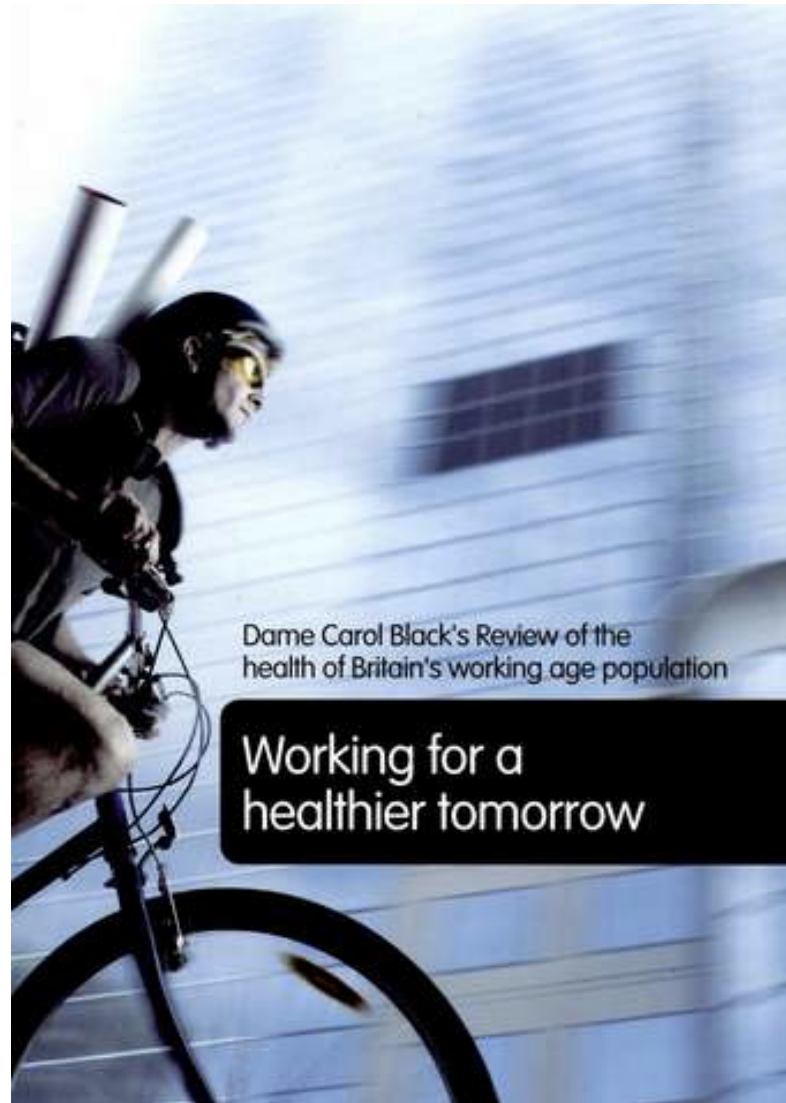
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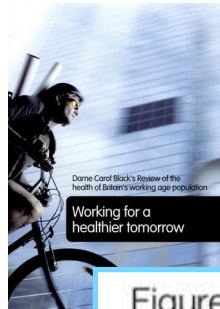
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Tramo 4: 5.000 LME o más	6	0,01%	27	0,4%	24,9	0,6%
Total	48.508	100%	7.228.921	100%	13,8	100%



Working for a
healthier tomorrow

Dame Carol Black
2008



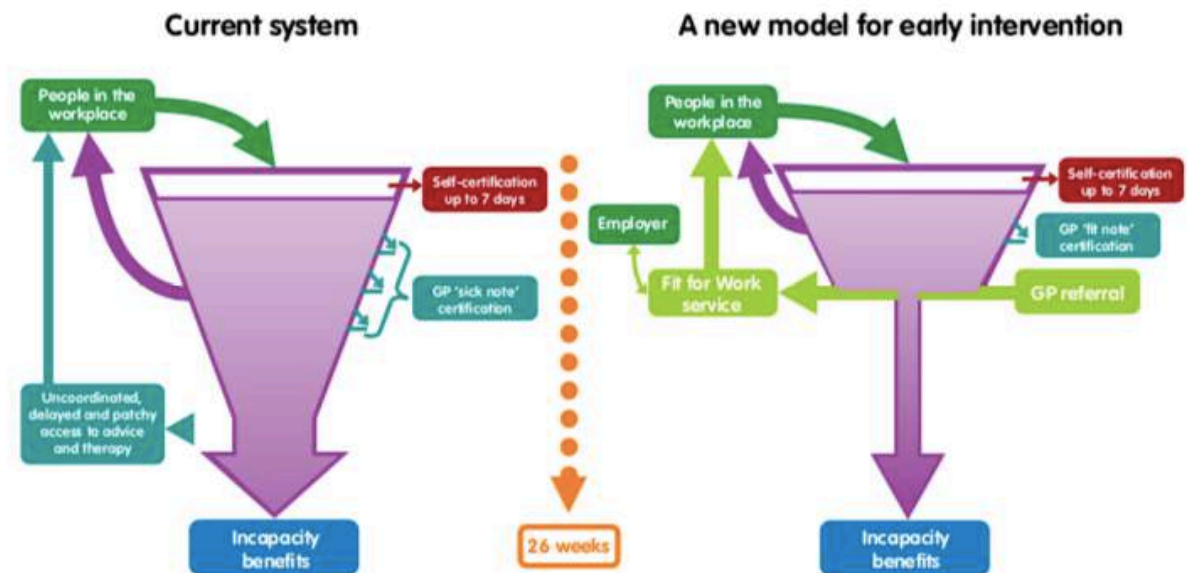


Working for a
healthier tomorrow

Dame Carol Black
2008

Figure 5.2 illustrates how the new model could work in contrast with the current system.

Figure 5.2



Instead of having to write multiple sick notes as patients slide towards incapacity benefits, in the new model a GP could refer a patient through the electronic fit note system to the multidisciplinary *Fit for Work* service.



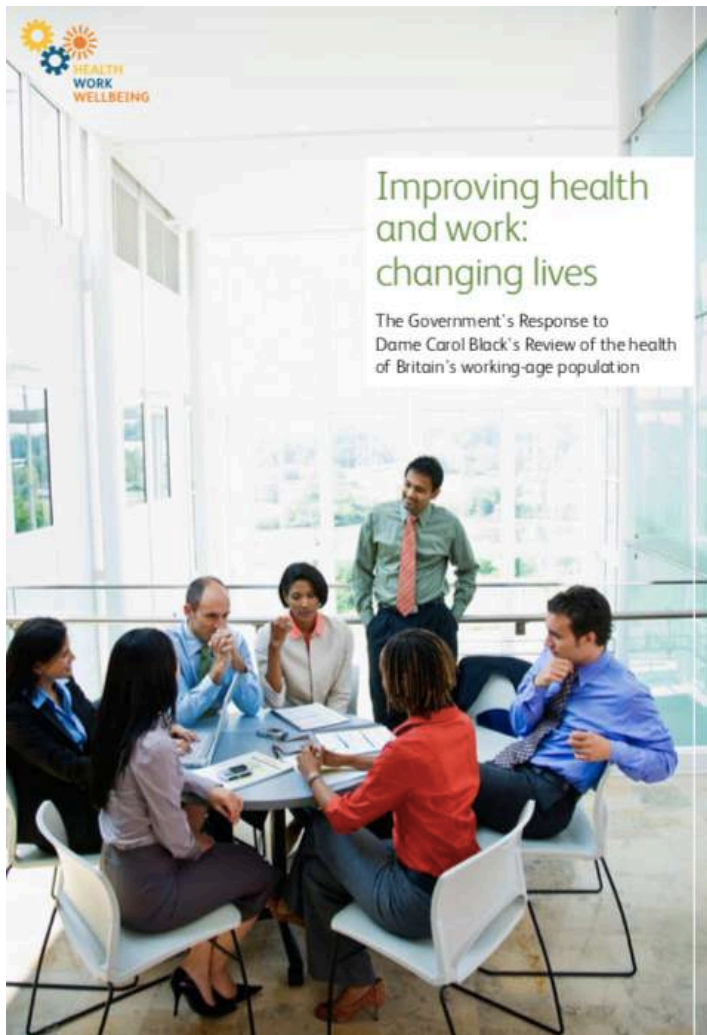
 **GOV.UK**

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Improving health and
work: changing lives.

UK Government

2008





- **For individuals**, we will: test a range of early intervention services to give them the direct support they need to return to work, including piloting 'Fit for Work' services; improving advice from GPs about fitness for work, and a new 'fit note'; and for people with mental health conditions we are developing a National Mental Health and Employment Strategy to ensure that Government is doing all it can to support their particular needs.
- **For healthcare professionals**, we will: provide the tools to better address health and work issues through the roll-out of the revised medical certificate (the new 'fit note'); improve the advice and training they receive to give them confidence in supporting their patients to get back into work; and options to refer to early intervention services and employment support.
- **For employers** we will: provide tools to help them understand the costs of absence; support to address individual employee health issues (in particular for small and medium-sized enterprises (SMEs)); and funding to deliver innovative health and well-being measures in the workplace. The roll-out of an electronic 'fit note' will also give employers more information about the steps they can take to help someone return to work from a period of sickness absence.

The importance of this issue has brought together departments across Government to develop a concerted response, but we alone cannot deliver all the changes needed.



Boletín N° 14.845-11
Mensaje Presidencial

Por tanto, **el objeto del proyecto de ley** es fortalecer las facultades de los organismos reguladores y fiscalizadores en esta materia y **aumentar las multas y períodos de suspensión de los emisores de licencias médicas en los presupuestos que establece la ley**. Lo anterior, en virtud de los siguientes fundamentos que hacen procedente y necesaria la referida modificación legal.





BMJ Journals

**Occupational &
Environmental Medicine**

Whitaker D.

Occ & Env Med 2001.
58 (6): 405 - 410

Santiago, enero 2023

Box 3: Different perspectives on sickness absence

- ▶ From the social perspective in terms of the rights and benefits that society considers should be made available to those who are unable to work because of illness
- ▶ From the economic perspective, including the impact that sickness absence has on productivity and sustainable development at the national and local level
- ▶ From the perspective of line managers and human resources who have to manage individuals and groups of workers within the framework of employment law
- ▶ From the perspective of health care professionals involved in helping to protect the health of workers
- ▶ From the perspective of employees and trades unions



BMJ Journals

Occupational &
Environmental Medicine

The complex phenomenon of sickness absence

Sickness absence is a complex phenomenon that is influenced strongly by factors other than health. The decision to attend or resume work following sickness

Whitaker D.

Occ & Env Med 2001.
58 (6): 405 - 410

Santiago, enero 2023





EL MERCURIO

Mientras que captadores de pacientes recibían un monto menor:

Hasta \$50 mil obtenían como comisión los médicos por cada licencia médica que vendían

- La Fiscalía Metropolitana Oriente formalizará esta mañana a 29 personas, principalmente, por el delito de asociación ilícita.

El Mercurio

8 diciembre 2022





EL MERCURIO

El Mercurio

8 diciembre 2022

“Los imputados conformaron asociaciones ilícitas para la comisión de delitos reiterados de otorgamiento de licencias médicas falsificadas (...). Provocando a Fonasa un perjuicio total aproximado hasta la fecha de a lo menos \$33.481.195.192”.

EXTRACTO DE PARTE DEL EXPEDIENTE
DEL CASO



Código de Ética.
COLMED (2022)

👉 Artículo 12:

- ✓ “El médico debe obrar siempre con honradez y buena fe. No ha de afirmar o negar con falsedad, hacer citas inexactas o tendenciosas, **ni hacer certificaciones falsas**”.





Colegio Médico
de Chile

Depto. de Ética
COLMED (2017)

- ✓ “El médico no ajusta su actuar como ministro de fe, otorgando una licencia médica para solucionar un problema laboral o social, cuya solución compete a otros ámbitos por ejemplo la Inspección del Trabajo”.



Colegio Médico
de Chile

Depto. de Ética
COLMED (2017)

- ✓ “En otras situaciones el Médico otorga la licencia a petición expresa del paciente y emite la licencia por una enfermedad inexistente. El médico acá confunde su rol de ministro de fe y su rol social y comete una falta ética y una infracción a una normativa legal”.



Colegio Médico
de Chile

Depto. de Ética
COLMED (2017)

- ✓ “La licencia médica es parte del acto médico. **La indicación del reposo es absolutamente prerrogativa del médico (u odontólogo o matrona) y ese hecho no puede ser bajo ningún aspecto vulnerado.** Intentarlo no puede ni debiera ser permitido por el Colegio de la Orden”.





Salud Mental Para Todos

Médico salud mental TELEMEDICINA (\$39.000)

Licencia médica por estrés laboral, tratamiento farmacológico. Atiende trastornos leves como ansiedad, estrés, estado de ánimo, alimentación. Facultado para realizar tratamientos, recetas, exámenes, licencias médicas y certificados.

 Llamar

 Whatsapp

Psiquiatra TELEMEDICINA - Fonasa, Isapres, Dipreca, Capredena (\$72.000)

Licencias prolongadas por trastornos más severos o crónicos. Tratamientos a largo plazo.

 Llamar

 Whatsapp

<https://www.saludmentalparatodos.cl/>



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Rescare

<https://www.rescare.cl>



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¿Necesitas licencia médica? Atención médica desde donde estés con emisión de documentos clínicos y boleta reembolsable





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You can make a report anonymously - you do not have to give your name or contact details unless you want to.



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'Greedy' nurse is jailed for eight months for making £18,800 working at a care home while on sick leave from her £43,000-a-year NHS hospital job

- An NHS nurse has been jailed for moonlighting while on sick leave from her job
- Rebecca Topczyklo-Evans doubled her wages after starting shifts at care home
- A court heard Topczyklo-Evans pocketed £18,800 in sick pay over eight months

<https://www.dailymail.co.uk/news/article-7739661/Greedy-nurse-jailed-eight-months-moonlighting-sick-leave.html>



La licencia médica:



- Es parte fundamental del acto médico.
- Es un documento en que el médico actúa como “ministro de fe” certificando que alguien faltará a su trabajo por razones de salud.
- Es un instrumento que permite que el trabajador reciba de su seguro de salud una compensación económica.

Besio M., (2011)
Rev Med Chile 139:
1503-1507





Studies in Church History Series



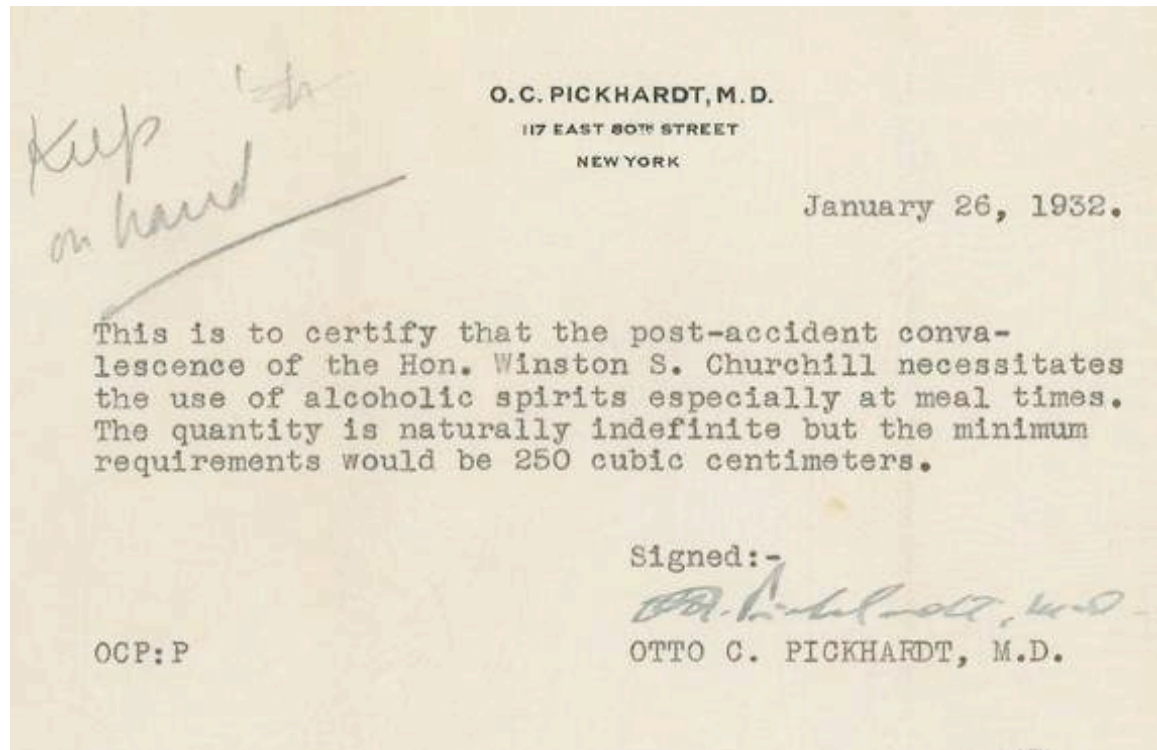
CAMBRIDGE
UNIVERSITY PRESS

Moral Sick Notes: Medical Exemptions to Religious Fasting in the Eighteenth-Century Spanish World

George A. Klaeren*

In 1748, in a published exposition on the *brevia*, Antonio José Rodríguez, who was both a Cistercian monk and a renowned author on medicine, argued that cooperation was needed between medicine and theologians because the subject of fasting belonged to both.⁶⁶

The point is perfectly Moral and perfectly Medical ... [for] a just determination, it is necessary [that the] subject is equally instructed in Moral Theology and in Medicine. Neither the Physician, however grand he may be, knows all the nature ... of all that is Christian, nor does the Theologian ... know what there is in the nature of diets and of illnesses ...⁶⁷



<https://www.openculture.com/2023/12/winston-churchill-gets-a-doctors-note-to-drink-unlimited-alcohol-while-visiting-the-u-s-during-prohibition-1932.html>



¡Gracias por la atención!