



**Department Order No. 208, series 2020**  
**GUIDELINES FOR THE IMPLEMENTATION OF MENTAL HEALTH**  
**WORKPLACE POLICIES AND PROGRAMS FOR THE PRIVATE SECTOR**

QUESTION	ANSWER
1. Is there a way for employers to be updated on new orders like this Mental Health order? How do we know when there is a new order?	The DOLE publishes its latest issuances/orders like the new Department Order on Mental Health in newspaper of wide circulation and posts such issuances in the DOLE and Bureau of Working Conditions (BWC) websites.
2. Where can we get a list of employee assistance program (EAP) providers on Mental Health (MH) services?	List of various organizations/associations providing employees assistance programs pertaining to mental health services are accessible in the websites of the following institutions: Philippine Psychiatric Association (PPA), Psychologist Association of the Philippines (PAP), Philippine Mental Health Association (PMHA) Department of Health (DOH) and other organizations providing mental health services.
3. Does the DOLE have a template for policy on mental health like the ones it has for other mandatory workplace programs?	The DOLE has no template specific for MH. The company can pattern its MH Program from the program components as enumerated in the Department Order 208 series 2020. It may also use the existing templates of other OH Programs as models and modify them accordingly based on the MH Guidelines. Take into consideration the following: 1. Workers' Data Privacy 2. Policy will be developed in coordination with the workers or their representatives The policy shall aim to bring back the worker to the workplace as much as possible.
4. When does DOLE expect companies to have their mental health policies in place?	Compliance of companies with MH DO is already included as an indicator in the OSH Checklist that is used in the enforcement activities of the DOLE. The Guidelines was signed on 11 February 2020 which took effect on 04 March 2020.
5. In the absence of company policy, can employees be sanctioned for disclosing sensitive mental health information of a co-employee?	It is mandatory to all companies to develop and implement Mental Health Policies and Programs in the workplace. The company Mental Health policies and programs should be part and parcel of the Occupational Safety and Health (OSH) Program which is also mandatory pursuant to the OSH Law (RA 11058 and its IRR, DOLE DO 198-18) which has penalties for violations as well as the Mental Health Act. Likewise, an individual may be sanctioned based on national laws such as the Data Privacy Act of 2012 or Safe Spaces Act which provide penalties for unauthorized and malicious disclosure of any information about the subject individual
6. Upon checking with our HMO, Psychiatric services are not included in their coverage. What assistance can DOLE/DOH render to us?	HMO coverage for MH services is not mandatory to companies. The DO on MH encourages employers to include MH services in their current HMO packages



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7. Is there any organization in the Philippines that provides mental health first aid training for line managers?	Companies may coordinate with the following organizations/associations providing mental health services such as the conduct of trainings, seminars etc. on mental health: Philippine Psychiatric Association (PPA), Psychologist Association of the Philippines (PAP), Philippine Mental Health Association (PMHA) Department of Health (DOH), National Center for Mental Health and other reliable organizations.
8. We do not have company policy yet. Does DOLE offer training/seminars?	Assistance in the formulation of company policy on mental health may be sought from DOLE, DOH and/or organizations rendering mental health services and such policy must be jointly prepared by OSH personnel, HR representative and workers' representative. For the conduct of trainings/seminars on mental health, companies may coordinate with organizations/associations like Philippine Psychiatric Association (PPA), Psychologist Association of the Philippines (PAP), Philippine Mental Health Association (PMHA) Department of Health (DOH), National Center for Mental Health (NCMH) and other reliable organizations.
9. Can depression be accepted as a valid reason for sick leave?	Like other diseases/illnesses, diagnosis of such will be based on clinical evidences and assessment/evaluation of a specialist shall be done to determine if such leave is necessary
10. Who can diagnose burn-out? The company doctor? How can we differentiate this from declining performance of the worker?	Burn out as a workplace phenomenon can be best identified by a company OH physician since he/she has knowledge of workers' physical and psychologic fitness to work and tasks and processes undertaken inside the company. Like other medical conditions, diagnosis of such will be based on evidences presented and results of appropriate assessment/evaluation on a worker presenting poor or declining performance/productivity.
11. Most doctors do not provide a fit to work certificate for mental health cases, is there a prescribed period that a certain situation may qualify for termination?	There is no prescriptive period for terminating employees with MH illness. Fit to work certification will depend on the medical status of the employee upon assessment of the physician. However, company policy may set rules for those employees who do not provide medical certification as a result of not seeking medical attention
12. Can we oblige our employees to take mental health awareness survey which we intend to roll out so as that the company may know those employees who have mental health concerns. Are we going to violate any laws?	Companies may utilize survey as their tool in aid of policy formulation and/or program development on MH. However, results of the survey shall not be used against employee/s who will be known to have or at risk of developing Mental Health Conditions. Results of surveys shall be treated with utmost confidentiality and in accordance with Data Privacy Act of 2012.



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13. Is there any available mental health check survey that companies can use to help them identify employees with mental health concerns proactively?	Survey tools are available online or companies may coordinate with the MH service providers/organizations in this regard.
14. I understand that we can't just terminate or take it against an employee if he/she is suffering from mental health crisis but for how long should we keep them employed with us?	<p>The employability or the readiness to work of an employee with mental health condition may depend on his/her medical status/condition which shall be determined by the attending mental health professionals as concurred by a company OH physician should there be any.</p> <p>Please be guided also of Sect. IVC1e of DO 208 s2020, worker shall not be terminated on the basis of actual, perceived or suspected mental health condition unless the condition progresses to a severity that it affects or endangers his/her own safety and co-workers' and work performance and productivity is likewise affected. In such case a certification from a public health competent authority with expertise on mental health is required.</p>
15. Do we need to update our application/employment forms which have questions on disability to include mental health?	It is the Company's prerogative to choose the best applicant who meets the position requirements provided equality and fairness shall be observed and those who reveal their mental health condition are not discriminated upon. HR or the one administering the form shall explain to applicants the importance of declaring health conditions/disability so that it becomes part of a monitoring process and a consideration for possible provision of work accommodation or some flexible work arrangement for qualified applicants with MH concerns.
16. Can the mental health services be imposed upon all HMOs to be included in the package offered to companies without additional premium to them since usage will be limited to affected members only?	The Guidelines mentioned "encourage" to employers to include mental health services in their HMO health packages. Negotiation shall be made among companies and HMO providers on the terms and agreements on inclusion of MH services to the company HMO packages.
17. What are the qualifications of a mental health practitioner who will assess and manage an employee with a MH concern/illness?	An Individual who has undergone the required trainings and acquired the necessary skills in the management of mental health related cases can be a mental health professionals
18. May I ask if employers are required to have in-house Mental Health practitioner e.g. Psychiatrist?	Ideally, it is better if the company can afford the services of an in-house mental health practitioner. But what is mandatory to the company is the provision of training and capacity building to its OSH personnel and HR people, for the identification and management of workers who are at risk or experiencing mental health issues. Likewise, a system of referral must be developed should a troubled worker needs further



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	management/intervention which may be beyond the capacity of the OSH personnel and HR people.
19. How can traditional managers be transformed to accept a culture of inclusivity and psychological safety?	Everybody including Managers should be informed and be aware of at least the basic information on Mental Health. A holistic approach in promoting mental health should be adopted by government/key players/stakeholders. This can also be achieved through attendance to trainings and involvement of managers to team building exercises
20. How do you guarantee confidentiality when there is a prevalent culture of “tsismis” (gossip)?	The government has issued another new law (The Data Privacy Act of 2012) that will ensure confidentiality of information provided by an individual to a person/entity/ and there are corresponding penalties for violations thereof.
21. If a company is to develop a referral system (i.e. referring an employee for MH consultation), is it required for the referrer to be a licensed MH professional?	Preferably yes but a referrer may not necessarily be a MH professional however, he/she should have undergone MH trainings. This should however not prevent the establishment from referring the worker to a licensed MH professional if the case of the worker exceeds the capacity of the current MH provider.
22. Can we include the neuropsychiatric exam as part of the pre-employment assessment?	Yes, but neuropsychiatric/neuropsychological examinations are not mandatory. Company may include them as part of the hiring process. Non-discrimination, confidentiality, equality and fairness shall be observed at all times
23. Can we include neuropsychological exam during recruitment and consider its results as a factors for consideration in hiring the employee?	Consider requiring this (if ever it will be required in PEME) when the worker is already hired to preclude this being used as a means not to hire the worker.
24. When pre-employment neuropsychiatric test results reveal an applicant to have mental condition, how do we balance the results with his/her employability and not discriminate him/her?	Results of these exams may be considered as factors in hiring if the job performance requirements/tasks are critical like professions dealing with life, security, peace and order. (ex. Pilots/MDs/Security Guards/Soldiers)
25. A sign of depression is decreased work productivity. We know that there’s a non-discriminatory clause in D.O. 208, s2020 but how can we prevent the company from terminating an employee due to poor performance?	Review of existing OH policies and programs or developing new ones aimed at promoting and protecting the MH and well-being of an employee should be done. Constant monitoring and documentation in evaluating performance of an affected employee is recommended Ex. Regular discussion between HR and worker affected of performance matrix and agreements reached
26. What are the requirements for developing a mental health policy specifically for OFWs?	Company policy on MH shall have provisions on the following but not limited to: 1. Advocacy/Information/Education/Training 2. Promotion and enhancement of workers well being 3. Non-discriminatory Policies and Practices 4. Confidentiality



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	<p>5. Disclosure            6. Work accommodation/arrangements            7. Treatment/Rehabilitation/Referral System            8. Benefits and Compensation            9. Support Mechanism Programs</p> <p>Annex B of DO208 contains provisions specific for OFW. Inclusion of MH topics in the pre-departure and post-arrival orientations as well as capacity building on MH case management of DOLE overseas employees are done.</p>
<p>27. By providing EAP access to employees, does it mean that the employer is already compliant with Section D item 1 on mental health program for referral procedures?</p>	<p>Yes, provided referral system/procedures are clearly outlined and properly communicated to the concerned personnel</p>
<p>28. What shall we do in case we don't have OH physicians in the company?</p>	<p>Under the OSH Law, establishments are mandated to have OH personnel including physicians based on the level of risk of the company and number of employees. If OH physician or OH nurse are not legally required of a company, the HR and Safety Officer with MH training should handle mental health related matters in the company. Also, there is the need to strengthen information dissemination and referral system.</p>
<p>29. Can we dismiss employee who failed to disclose her mental health condition prior to hiring? One of our employees was diagnosed with bipolar disorder after a year of employment with us.</p>	<p>Under Sect. IVC1e of DO 208 s2020, worker shall not be terminated on the basis of actual, perceived or suspected mental health condition unless the condition progresses to a severity that it affects or endangers his/her own safety and co-workers' and work performance and productivity is likewise affected. Also, Sect. IVC3a of the same Guidelines encourages workers to disclose their medical or mental health condition for purposes of reasonable work arrangements. The Mental Health Act do not mandate disclosure.</p>
<p>30. Can we include mental health check in pre-employment medical exam and annual medical exam?</p>	<p>Yes, company may include mental health check in medical examinations for monitoring and possible work arrangements. Confidentiality, fairness and equal treatment shall be practiced at all times.</p>
<p>31. Do we have enough Mental Health Facility/Resources knowing Mental Health Services are very costly</p>	<p>The DOH has planned to bring the mental health services at the community/barangay level (primary health care). We also encourage employers to include MH services in their HMO coverage/health packages.</p>
<p>32. How do we deal with companies which do not assess the MH of their employees. How can we address the concern through EAPs?</p>	<p>Management and workers' engagement to the development of MH programs and activities is one key factor. It is important to emphasize the value of the MH program for it will bring about a mentally healthy</p>



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	workforce. Package a program that will promote work life balance through activities like team building/socializing /recreational activities etc
33. The DOLE issues a lot of orders to companies for compliance like Drugs, HIV and now Mental Health. How can the companies implement all of them especially the Mental Health requirements to consider a lot of work to be done by HR people	MH is part of the bigger picture of Occupational Safety and Health (OSH). Addressing the MH condition/issues is looking at risks, taking into consideration the behaviour of an individual. We have to factor in all considerations and census will tell what to prioritize and what will do, based on the data gathered. Prioritization takes place. To improve the productivity of workers, HR as middle managers together with the OSH personnel can recommend to management appropriate programs/activities applicable to the company.
34. How ready are the MH practitioners or civil society as they are already aware of the MH needs at the workplace and given the fact that they are few in numbers	Mental Health professionals/society have been consulted and were participants in the development of the guidelines. Yes, they are aware of the need for their services not only at the workplace level but the whole country as well. Collaboration among civil society groups and government agencies is being undertaken to fully implement the Mental Health Law.
35. Pre-employment expenses for psychological examination is costly.	Psychological examination is not mandatory. It is recommended that this examination be given to the shortlisted applicants. Employers may negotiate with their HMO providers to include said examinations in their health service contract agreements.
36. Is mental health condition acquired in the workplace is compensable?	Yes but its not automatic. Compensability of the condition will be based on the evaluation of pertinent documents like medical records, medical abstract, job description or any related documents as required under ECC claims and/or SSS sickness benefits to prove that the mental health condition was acquired by the worker in the performance of his/her job.