

Mental Health in the Workplace: Legal Considerations in Macau

CONTACT



Helena Kok
Partner



Regulations and Policy Requirements

Is there a specific regulation in your jurisdiction that regulates mental health in the workplace? Are employers required to have policies regarding mental health, i.e. to promote mental health awareness and protection?

Under Macau law, there are no legal provisions or regulations specifically governing mental health conditions in the workplace. Employers are not required to implement mental health policies in the workplace unless they choose to do so voluntarily.

Leave Entitlements

Are employees with diagnosed mental health conditions entitled to paid or unpaid leave? If so, under what laws/policies and conditions?

Mental health is not a specific leave category under Macau law. According to the Macau Labour Relations Law, employees are entitled to a minimum of six days of paid sick leave annually. Employees may use this paid sick leave for any mental health conditions. Any additional sick leave beyond this may be unpaid unless otherwise provided by company policy.

Employer Management of Suspected Conditions

May an employer require an employee with suspected mental health issues to leave the workplace or take time off? What level of evidence is required?

An employer may ask an employee to stop working or take leave if there is a reasonable and legitimate reason, such as safety concerns (for the employee or others), especially in jobs that demand full physical and mental capability at all times, or if the employee is unable to fulfill their responsibilities. However, such legitimate reasons must be strong and evidentiary enough since there is a provision in the labor law prohibiting employers from forbidding employees from attending work.

Medical Examination / Fitness for Work

Can an employer require an employee suspected of having mental health issues to undergo a medical examination or seek medical attention? Are there limits or procedural safeguards?

An employer may advise/request an employee to undergo a medical examination or seek medical attention as a gesture of concern; that is, the employer cannot force the employee with threats of dismissal. If, by the nature of their position or by demonstrated performance-related concerns, the employer may only ask the employee to seek a medical examination and prove the employee's fitness to work through a medical certificate.

Medical Costs / Insurance

Are treatment costs for mental health conditions covered by statutory medical insurance or employer-provided benefits?

Statutory insurance coverage is for work injury, not covering mental issues, unless the mental issue is proven to have causation with work; or the employer tops up with wider coverage, as additional perks.

Occupational Disease / Work-related Illness

Can mental health conditions be classified as occupational illnesses and be covered under occupational injury insurance? What criteria must be met?

Only occupational illnesses specified under Decree-Law 40/95/M are recognised as such. Simple mental health conditions are not classified as occupational illnesses under Macau law.

Disability Protections

Can employees obtain disability benefits or protections due to mental health conditions? Does the law recognize mental illness as a disability?

If employees are classified and registered as having a mental disability in accordance with Administrative Regulation No. 3/2011, they may be eligible to receive disability benefits under the Social Security Fund. The amount of subsidies varies depending on the level of mental disability, and the beneficiaries will be issued a Disability Assessment Registration Card.

Termination

Can an employer terminate an employee with a mental health condition: (i) when the employee is unable to return to work; or (ii) for other business reasons unrelated to the condition? What legal risks (e.g., unfair dismissal, discrimination) arise?

Termination due to unjustified absence is just cause for termination under Macau law.

Termination due to mental health condition must be evaluated on a case-by-case basis, assessing the severity of the employee's mental conditions, and how they impact the work performance. There is no standalone just cause provided by the law for reason of mental issue. This would fall under the general criteria of "the situation is so serious that it renders the employment relationship impossible". In any case, a mental condition should not be the direct reason; it must be somehow linked to the work, e.g., due to a mental issue, committed in unjustified absence; due to a mental issue, engaged in physical aggression with colleagues/customers.

Confidentiality and Data Protection

What are the employer's obligations regarding confidentiality, collection, use and storage of employee mental health information and medical records?

Under the Macau Personal Data Protection Law and Labour Relations Law, employers are required to keep the confidentiality of employees' medical information, as it is classified as sensitive data. Employers must avoid processing or disclosing such information to third parties unless they have the employee's explicit consent or if disclosure is required due to public interest and approved by the relevant governmental authority.

Therefore, discrimination issues should not have a place.

Reasonable Accommodation

Is the employer required to provide reasonable accommodation to employees with mental health conditions? Examples: flexible hours, reduced workload, remote work

No, Macau law does not explicitly require employers to provide "reasonable accommodation" for employees based on mental health conditions.

Anti-Discrimination

Are mental health conditions protected under anti-discrimination laws? What conduct constitutes discrimination?

Our jurisdiction does not have a standalone anti-discrimination law, and anti-discrimination provisions are contained in the Basic Law and the Labour Relations Law. We would say that mental health patients are protected under these general anti-discrimination provisions. For mental health citizens, the law only has a mechanism for forced hospitalization in protection of society.

Our Contributors



Helena Kok
Partner

helena.kok@mdme.com

[visit profile](#)