



Republic of the Philippines
Department of Health
OFFICE OF THE SECRETARY

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Administrative Order
No. 2013 - 0008

Subject: Guidelines for the Implementation of Section 19 of the
Implementing Rules and Regulations of Republic Act No. 9745,
Otherwise Known as the Anti-Torture Act of 2009

I. Background:

On November 10, 2009, Republic Act 9745, "An Act Penalizing Torture and Other Inhuman and Degrading Treatment or Punishment and Prescribing Penalties Therefor," otherwise known as the **Anti-Torture Act of 2009**, was passed into law. The Act reaffirms a provision in the 1987 Philippine Constitution on the absolute condemnation and prohibition of torture. The Act reiterates the value conferred by the State on the dignity of every human person and guarantees full respect for human rights, specifically the rights of suspects, detainees and prisoners.

Certain provisions of the Anti-Torture Act of 2009 are related to the mandates of the Department of Health (DOH) and other major stakeholders in healthcare:

1. **Philippine Constitution, 1987**— "The State shall protect and promote the right to health...adapt an integrated and comprehensive approach to health development... There shall be priority for the needs of the underprivileged, sick, elderly, disabled, women and children."
2. **Local Government Code of 1991**—The DOH shares responsibility with local government units for the health care provision of the Filipino people.
3. **Magna Carta for Public Health Workers 1992**—The duties and obligations of the public health workers are: "(a) discharge his/her duty humanely with conscience and dignity; and, (b) perform his/her duty with utmost respect for life; and regardless of race, gender, religion, nationality, party politics, social standing or capacity to pay." Through this law, the public health workers are also protected from interference and coercion in the discharge of their functions, like when acts of undue influence are calculated to intimidate or to prevent the performance of their duties and responsibilities (Section 32).
4. **Magna Carta for Women 2009**— "Right to comprehensive health services ...the Magna Carta of Women also guarantees the civil, political and economic rights of women in the marginalized sectors (small farmers and rural workers, fisherfolk, urban poor, workers in the informal economy, migrant workers, indigenous peoples, Moro, children, senior citizens, PWD and solo parents)".
5. **Republic Act No. 7610** of 1992 which provides for "Stronger Deterrence and Special protection Against Child Abuse, Exploitation and Discrimination."

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6. **RA No. 7438** of 1992 which “Defines the Rights of Persons Arrested, Detained or Under the Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigation Officers.”
7. **RA No. 9344** of 2006 which established the “Comprehensive Juvenile Justice and Welfare System.”

II. Scope of Application

This Administrative Order shall be applicable to all government and private health institutions, health facilities and health practitioners.

III. Statement of Policies

1. Every human being is to be treated with dignity and respect.
2. Every human being has the right to health, including suspects, detainees and prisoners.
3. The DOH upholds the principles provided for in the 1987 Constitution on the absolute condemnation and prohibition of torture, which are reiterated by the Republic of Philippines’ commitments to the International Covenant on Civil and Political Rights, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
4. The DOH, together with the Philippine Medical Association, supports the Declaration of Tokyo of 1975 for the 29th World Medical Assembly which issued the Guidelines for Medical Doctors concerning Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in relation to Detention and Imprisonment. The Tokyo Declaration of 1975 consists of the following:
 - a. “The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedure is suspected, accused or guilty, and whatever the victim's belief or motives, and in all situations, including armed conflict and civil strife.
 - b. The doctor shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.
 - c. The doctor shall not be present during any procedure during which torture or other forms of cruel, inhuman or degrading treatment are used or threatened.
 - d. A doctor must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The doctor's fundamental role is to alleviate the distress of his or her fellow men, and no motive whether personal, collective or political shall prevail against this higher purpose.

- e. Where a prisoner refuses nourishment and is considered by the doctor as capable of forming an unimpaired and rational judgment concerning the consequences of such voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgment should be confirmed by at least one other independent doctor. The consequences of the refusal of nourishment shall be explained by the doctor to the prisoner.”
5. The DOH likewise upholds The Istanbul Protocol and similar international and national covenants that are applicable to the practice of medical and other allied health professions.
6. All healthcare professionals and practitioners together with partner agencies and organizations are jointly responsible for the dissemination and implementation of the provisions of the Anti-Torture Act of 2009.

IV. Objectives

The objectives of this Administrative Order to implement Section 19 of the Implementing Rules and Regulations of the Anti-Torture Act of 2009 in the Health Sector are to:

1. Establish the participation of healthcare workers in the implementation of the Anti-Torture Act of 2009;
2. Provide the mechanisms by which healthcare workers, especially the responding medical doctor, can protect the right of torture victims or potential torture victims to demand a medical examination by a physician of their own choice; and,
3. Provide directives to ensure capability building toward the competent implementation of the Anti-Torture Act of 2009 in terms of assessment, diagnosis, and treatment of torture victims, their families and perpetrators of torture, and in terms of documenting and reporting probable incidences of torture.

V. Definition of Terms

1. **Torture**—RA 9745 defines torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him/her or a third person information or a confession; punishing him/her for an act he/she or a third person has committed or is suspected of having committed; or intimidating or coercing him/her or a third person for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with consent or acquiescence of a person in authority or agent of a person in authority. It does not include pain or suffering arising from, inherent in or incidental to lawful sanctions.”
2. **“Act,”** for the purposes of this administrative order, shall mean Republic Act No. 9745 or the Anti-Torture Act of 2009

3. **“Person in authority”** refers to any person directly vested with jurisdiction, whether as an individual or as a member of a court or government corporation, board or commission.
4. **“Agent of a person in authority”** refers to any person who, by direct provision of law or by election or by appointment of a competent authority, is charged with the maintenance of public order and the protection and security of life and property including any person who comes to the aid of persons in authority.
5. **“Custodial investigation”** includes the practice of issuing an invitation to a person who is investigated in connection with an offense he/she is suspected to have committed, without prejudice to the liability of the inviting office for any violation of law, as defined in RA No. 7438 or “An Act Defining Certain Rights of Persons Arrested, Detained or Under Custodial Investigation as well as the Duties of the Arresting, Detaining and Investigating Officers, and Providing Penalties for Violations Thereof.”
6. **“Independent and competent doctor”** is defined by the Department of Justice (DOJ) and Commission on Human Rights (CHR) Implementing Rules and Regulations of RA 9745 as “any physician freely chosen by the victim or his/her authorized representative to conduct physical examination and treatment of tortured victims. Physicians who belong to agencies that are involved in the arrest and detention of the victim are not included, unless the victim specifically allowed such examination and when circumstances so require.” For the purposes of the Anti-Torture Act of 2009, a physician who is licensed as a medical doctor by the Professional Regulatory Commission is considered a competent doctor.
7. **“Healthcare worker”** is a person directly providing any form of legitimate health services or someone who works in a healthcare institution or healthcare facility.
8. **“Medical Examiner”** is a physician who shall conduct the physical and/or psychological examination of the alleged victim and shall evidence such examination with a medical report signed by him/her.
9. **“Healthcare or health facility”** is a building or edifice that is used for the provision of healthcare services and includes all types of hospitals, outpatient clinics such as rural health units, health centers, health offices, *barangay* health stations, birthing facility, newborn screening centers, dental clinics and laboratories, drug testing laboratories, drug abuse treatment facilities, blood service facilities and other facilities for specialized health services
10. **“Medical examination”** for the purpose of this document, shall mean physical examination and other adjunct methods of assessment applied by a medical examiner in order to determine the presence of injuries and illness in a person.
11. **“Forensic medicine”** is the science that deals with the application of medical knowledge to legal questions.

VI. General Guidelines

1. **Acts Constituting Torture**—Healthcare workers, especially those mandated to directly attend to victims or probable victims of torture, shall raise their awareness or level of suspicion to be able to identify torture victims adequately. RA 9745 describes acts constituting torture and classifies them into 2 groups: physical torture and mental/psychological torture, as follows;
 - a. **Physical Torture**—Forms of treatment or punishment inflicted by a person in authority or his/her agent that causes severe pain, exhaustion, disability or dysfunction of one or more parts of the body, such as:
 - i. “Systematic beating, head banging, punching, kicking, striking with truncheon or rifle butt or other similar objects, and jumping on the abdomen;
 - ii. Food deprivation or forcible feeding with spoiled food, animal or human excreta and other stuff or substances not normally eaten;
 - iii. Electric shock;
 - iv. Cigarette burning, burning by electrically heated rods, hot oil, by the rubbing of pepper or other chemical substances on mucous membranes, or acids or spices directly on wounds;
 - v. Submersion of the head in water or water polluted with excrement, urine, vomit and/or blood until the brink of suffocation;
 - vi. Being tied or forced to assume fixed and stressful bodily position;
 - vii. Rape and sexual abuse, including the insertion of foreign objects into the sex organ or rectum (or anus), or electrical torture of the genitals;
 - viii. Mutilation or amputation of the essential parts of the body such as the genitalia, ear, tongue, etc.;
 - ix. Dental torture or forced extraction of the teeth;
 - x. Pulling out of fingernails;
 - xi. Harmful exposure to the elements such as sunlight and extreme cold;
 - xii. The use plastic bag and other materials placed over the head to the point of asphyxiation;
 - xiii. The use of psychoactive drugs to change the perception, memory, alertness or will of a person, such as:
 - a) The administration of drugs to induce confession and/or reduce mental competency; or
 - b) The use of drugs to induce extreme pain or certain symptoms of a disease; and
 - xiv. Other analogous acts of physical torture.
 - b. **Mental/Psychological Torture**—Acts committed by a person in authority or agent of a person in authority which are calculated to affect or confuse the mind and/or undermine a person’s dignity and morale, such as:
 - i. Blindfolding;
 - ii. Threatening a person or his/her relatives with bodily harm, execution or other wrongful acts;

- iii. Confinement in solitary cells or secret detention places;
- iv. Prolonged interrogation;
- v. Preparing a prisoner for a show trial, public display or public humiliation of a detainee or prisoner;
- vi. Causing unscheduled transfer of a person deprived of liberty from one place to another, creating the belief that he/she shall be summarily executed;
- vii. Maltreating a member/s of a person's family;
- viii. Causing the torture sessions to be witnessed by the person's family, relatives or any third party;
- ix. Denial of sleep/rest;
- x. Shame infliction such as stripping the person naked, parading him/her in public places, shaving the victim's head or putting marks on his/her body against his/her will;
- xi. Deliberately prohibiting the victim to communicate with any member of his/her family; and
- xii. Other analogous acts of mental/psychological torture.

c. **Other Cruel, Inhuman and Degrading Treatment or Punishment**—Refers to deliberate and aggravated treatment or punishment not enumerated as physical or mental/psychological torture inflicted by a person in authority or agent of a person in authority against another person in custody, which attains a level of severity sufficient to cause suffering, gross humiliation or debasement to the latter.

2. **Rights Protected by the Anti-Torture Act**—The following rights should be respected by health workers and professionals involved in responding to persons under custody:

- a. **The Absolute Right to Freedom from Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment** which applies to all circumstances.
- b. **Right to Own Choice** which refers to the right of all persons in custody to be informed in oral or written form, in a language or dialect understood by the alleged torture victim or the person concerned, of his/her right to demand a physical examination by a physician of his/her own choice.
- c. **Right to Physical Examination** refers to the right of every person arrested, detained or under custodial investigation to prompt and thorough medical examination for the purpose of determining whether or not torture has been inflicted. This right shall be availed of before and after interrogation and immediately before and after any transfer of the person to places of detention.

Access to Physical, Medical and Psychological Examination for Treatment is immediately executory right upon the demand of the victim without need of any court order or legal process. The right is also provided to members of the victim's immediate family.

- d. For the **Institutional Protection of Torture Victims and Other Persons Involved**, torture victims shall have the right to prompt and impartial fact-finding investigation within a period of sixty (60) days by the CHR, Philippine National Police (PNP), DOJ and other concerned government agencies where the complaint is lodged. In the case of a child, the child shall always be accompanied by a social worker from the local Social Welfare and Development Office.
- e. The victims of torture and witnesses to torture have the right to avail of the benefits of RA No. 6981, otherwise known as the “**Witness Protection, Security and Benefit Act**” and other applicable laws.

3. Obligations of the Medical Examiner:

1. To never in any way, directly or indirectly, participate in acts constituting torture, cruel, inhuman and degrading behavior;
2. To conduct diligently and completely the necessary medical examinations on victims or probable victims of torture;
3. To prepare a comprehensive medical report within the prescribed period and according to the standard DOH-recommended reporting form;
4. To institute immediate treatment and necessary referral so as to mitigate the physical, health and psychological effects of torture;
5. Make referrals for appropriate laboratory and ancillary procedures when necessary;
6. Make referrals to appropriate health facilities and experts for the treatment and rehabilitation of victims of torture;
7. Make recommendations on the psychological management or rehabilitation of members of the family or eyewitnesses to torture; and
8. Assist the government in the administration of justice (Code of Ethics of the Medical Profession) in relation to the Act.

Any violation of these obligations by conduct or omission shall be referred to relevant authorities and medical associations for further investigation.

4. Organizational Support to the Medical Examiner—The organization or health facility that employs the medico-legal officers (health officers of local government units, medical officers of disinterested law enforcement agencies and physicians of all licensed health facilities), medical examiners and other responders to the torture victim shall ensure the provision of physical and administrative environment that will enable these officers to perform their duties adequately in relation to the Act. This will include, but not be limited to, the provision of:

- a. room or secured area for history taking and physical examination that are with audio and visual privacy;
- b. medical supplies, documentation and video equipment, facilities and report forms for diagnosis, treatment and referral or rehabilitation;
- c. transportation and other allowable incidental expenses;

- d. coordination with appropriate agencies for the safety and protection of the medical examiner and of records and reports pertaining to torture victims;
- e. policy on work schedules to ensure that the time spent to implement the Act is official business;
- f. mechanisms to identify and network with alternative team/s of physicians (example, PMA and NGOs) to support the task of medical examination; and,
- g. access to information and training related to the improvement of knowledge, skills and attitude to implement the Act.

VII. Specific Guidelines

1. Roles of the Department of Health

National Center for Health Facilities Development (NCHFD)

- a. Establish referral diagnostic facilities for forensic medicine within DOH health facilities with combined capabilities for, but not limited to the following: DNA tests, radiology services and chemical, toxicologic and serologic tests.

Information Management Service (IMS)

- a. Establish continuous databases on injuries, partner agencies, health human resources and other resources that are vital for the implementation of the Act.
- b. Incorporate in the administrative order on the "National Implementation of the Unified Registry System of Chronic Non-Communicable Disease, Injury-Related Cases, Persons with Disabilities, and Violence Against Women and Children" the indicators and other information required by the above named information system to include the data and information needs to implement the Act.

National Epidemiology Center (NEC)

- a. Establish continuous databases on injuries, partner agencies, health human resources and other resources that are vital for the implementation of the Act.

Health Human Resource and Development Bureau (HHRDB)

- b. Identify technical resources and experts in forensic medicine, medical jurisprudence and other related disciplines in order to provide opportunities for adequate formal training for physicians in government health service.
- c. Provide opportunities for the orientation of healthcare workers on provisions of the Act related to health services.
- d. Prescribe standards in the provision of health services related to the Anti-Torture Act, to be incorporated into medical and paramedical educational and training programs.

Centers for Health Development (CHDs)

- a. Each Center for Health Development shall ensure that victims are referred to the appropriate health facilities in their jurisdiction per Section 19 of the Implementing Rules and Regulations of the Anti-torture Act of 2009.

Others

- a. Use its regulatory functions as far as practicable to strengthen the implementation of the Act and similar laws.
 - b. In coordination with the Department of Social Welfare and Development (DSWD) and other agencies of government, formulate a rehabilitation program for the victims of torture, their families and a parallel rehabilitation program for the persons who have committed torture and other related acts, per Section 37 of the Implementing Rules and Regulations of the Anti-Torture Act of 2009.
 - c. Institute actions to address complaints from medical examiners/doctors and other health workers assisting torture victims or their families.
2. The contents of the Medical and Psychological Report shall comply with Section 24 of the Implementing Rules and Regulations of the Act. The Guidelines for Medical Evaluation of Torture and Ill-Treatment (Istanbul Protocol) is basis for the Medical Report Form for Probable Victims of Torture in Annex A.
 3. Reporting Process—In principle and, as stated in the Section 23 of the IRR, “the medical report on a torture victim shall be treated as a public document, provided that any person who seeks to avail of the medical report has legal interest on the same; provided further that medical reports involving children and victims of sexual violence shall be kept confidential in conformity with existing laws.”
 - a. **The Medical Report Form for Probable Victims of Torture** can be released by the medical examiner or the medical records custodian of the health facility where the medical examiner is employed only to persons with legal interest, namely:
 - i. Victim – unconditional release
 - ii. Next of kin – adequately validated as next of kin of victims
 - iii. Lawyer/s of the victims – authorized in writing by the victim
 - iv. Perpetrators and representative of suspected perpetrator of torture, after presentation of a court order
 - v. Others authorized in writing by the victim
 - vi. Others authorized by a court of law
 - b. All accomplished Medical Report Forms shall be assigned a permanent report number. The safekeeping of Reports within a health facility shall be the responsibility of the designated Records Custodian.

- c. **Timing of Completion of Report**—Completeness and quality of report is more important than providing any report in haste to a requesting party.
 - i. The Medical Report Form for Probable Victims of Torture is recommended to be completed as early as possible, for the purpose of inquest proceedings.
 - ii. Supplementary reports like results of diagnostic procedures, psychiatric evaluation, photographs and other documents should be prepared as soon as possible and submitted to the appropriate authorities, as necessary.

VIII. Funding

The Department of Health through its Bureaus, Offices, Services, hospitals and field units shall set aside budget to implement the provisions of this issuance.

IX. Effectivity

This Administrative Order shall take effect 15 (fifteen) days after publication in two newspapers of general circulation.



ENRIQUE T. ONA, MD
Secretary of Health

MEDICAL REPORT FORM FOR PROBABLE VICTIMS OF TORTURE AND ILL-TREATMENT

This Medical Report Form for Probable Victims of Torture and Ill-Treatment is a modified version of the form recommended by the Department of Health-Philippines, labeled as "Guidelines for Medical Evaluation of Torture & Ill-treatment," which is presented in its Manual of Standards and Guidelines on the Management of the Hospital Emergency Department. The former version is a modification of the guidelines set forth in the Istanbul Protocol-Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 2004. This new August 2012 version incorporates the reporting requirements of Republic Act No. 9745, or the Anti-Torture Act of 2009, and is characterized by the detailing of certain sections of the Istanbul Protocol in order to make the Form more user-friendly.

I. CASE INFORMATION

Date of exam: _____ Place of Exam: _____

Referring or requesting person-name, position-agency and contact no. _____

Case or Report No. _____ Duration of the Evaluation: _____ hours and _____ minutes

Subject's given name: _____ Subject's family/middle name: _____

Birth Date: _____ Birthplace: _____ Gender: male/female _____

Reason for exam: _____ Subject's ID/no. _____

Medical Examiner-name, position, agency: _____

Informant/interpreter, if any-name, relation to subject, contact no. _____

Companion of Subject-name, position, agency: _____

Nearest live next-of-kin-name, relation and contact number: _____

Other persons present during exam-name, position, agency: _____

Subject restrained during exam, yes/no; if yes, how and why? _____

Medical report to be transferred/submitted to-name, position, ID: _____

Transfer date: _____ Transfer time: _____

Medical evaluation / investigation conducted without restriction (for subjects in custody): yes/no _____

Provide details of restriction/s, if any: _____

II. BACKGROUND INFORMATION

General information on the Subject:

Age: _____ Occupation: _____ Civil Status: _____ Highest Education: _____

Past medical history: (allergies, current medications, past surgeries, OB history, alcohol/tobacco habits, common diseases in the family, etc.) _____

Past medical evaluations of torture and ill-treatment: (according to patient/record) _____

Psychosocial history, pre-arrest or pre-torture: (current symptoms, personal history of psychological disorder, family history of psychological disorder) _____

Date of Examination/Evaluation: _____ Name of Medical Examiner: _____

III. ALLEGATIONS OF TORTURE, PHYSICAL INJURY & ILL-TREATMENT

1. Summary of Detention and Abuse

a. Circumstances of arrest and detention

- i. Date, time and place of first arrest _____
- ii. Alleged reason for warrant of arrest or detention _____
- iii. Activities of subject prior and during the arrest _____
- iv. Names, aliases, positions and description of perpetrator of torture or ill-treatment _____

b. Initial and subsequent places of detention chronology, transportation and detention conditions:

Date/Time	Transportation	Detention Conditions
_____	_____	_____
_____	_____	_____

c. Narrative account of ill-treatment or torture (in each place) : _____

2. Review of torture methods: _____

IV. PHYSICAL SYMPTOMS AND DISABILITIES

- 1. General appearance: _____
- 2. Skin: _____
- 3. Face and head: _____
- 4. Eyes, ears, nose and throat: _____
- 5. Oral cavity and teeth: _____
- 6. Chest and abdomen, including vital signs: _____
- 7. Genito-urinary system: _____
- 8. Anal region: _____
- 9. Musculoskeletal system: _____
- 10. Central and peripheral nervous system: _____

(See attached drawings.)

V. PSYCHOLOGICAL HISTORY / EXAMINATION

1. Methods of Assessment

- a. Current psychological complaints: _____
- b. History of present psychological illness: _____
- c. Past psychological/psychiatric history: _____
- d. Social case history (anamnesis)
 - i. Prenatal: _____
 - ii. Childhood: _____

Date of Examination/Evaluation: _____ Name of Medical Examiner: _____

- iii. Puberty/adolescence: _____
- iv. Adulthood: _____
- v. Drug, alcohol & other substances: _____
- vi. Occupational: _____
- vii. Legal: _____
- viii. Current living conditions _____

2. Mental Status Examination

- a. General appearance: _____
- b. Attitude: _____
- c. Behavior: _____
- d. Mood and Affect: _____
- e. Speech: _____
- f. Perceptual/conceptual disturbance (hallucination/delusion): _____
- g. Thought content (flight of ideas, looseness of association, perseveration, etc.): _____

- h. Sensorium and cognition (as to time, place, person and memory): _____

- i. Judgment and insight (Ask to interpret meaning of proverbs like, "Aanhin pa ang damo kung patay na kabayo?" or other common sayings.): _____

3. Neuropsychological Testing (recommend need or not for further neuropsychological testing):

Yes _____ No _____

- VI. **PHOTOGRAPHS** (Indicate if there are and how many printed photographs are ready to be attached.)
- VII. **DIAGNOSTIC TEST RESULTS** (Enumerate/list diagnostic test results that are attached to the report, if any.)
- VIII. **CONSULTATIONS** (Describe type/s and frequency of medical consultations the client has been referred to and undergone at the time of the report.)
- IX. **INTERPRETATION OF FINDINGS** (Correlate psychological findings with the report of alleged torture and reactions to stress with the cultural and social context. Estimate what stage of psychological distress the client is experiencing. Identify co-existing stressors. Mention physical conditions that may contribute to the psychological symptoms, e.g. head trauma.)
- X. **CONCLUSIONS AND RECOMMENDATIONS** (State opinion on consistency between findings and allegations of torture and/or ill-treatment.)
- XI. **STATEMENT OF RESTRICTIONS ON THE MEDICAL EVALUATION / INVESTIGATION** (Describe, if any.)

Date of Examination/Evaluation: _____ Name of Medical Examiner: _____