

MENTAL HEALTH EVALUATIONS FOR MILITARY MEMBERS¹

Key References: 10 U.S.C. § 1034; DOD Dir. 7050.6; DOD Dir. 6490.1; DODI 6490.4; IGDG 7050.6; SECNAVINST 5370.7C.

Key Concepts: Referrals for mental health evaluations must comply with established rules, which are summarized below. Compliance with these rules provides appropriate documentation in support of Commander's decision to refer member for a mental health evaluation. It is unlawful to refer a service member for a mental health evaluation in reprisal for making protected communications (allegation of violation of law or regulation) to Congress, Inspector General, other investigators, or the chain of command.

Commander's Guidance:

- Absent an "emergency," commanding officers (CO) must first consult with a "mental healthcare provider" (MHP) to determine if a "mental health evaluation" (MHE) is warranted. The MHP will provide advice and recommendations about whether the evaluation should be conducted routinely or on an emergency basis.
- CO must then provide the member with a written memorandum at least two business days before a routine evaluation. This memorandum must include:
 - The time and date of the evaluation;
 - A description of the behaviors and/or communications that led to the referral;
 - The name of the mental health provider the commander consulted;
 - Notification of the members "statement of rights," enclosure 4, DODI 6490.4, including:
 - right to consult with counsel;
 - right to submit an allegation of reprisal to the IG;
 - right to obtain a second opinion from an MHP of his/her own choice;
 - The titles and telephone numbers of authorities, including attorneys, IGs, and chaplains who can assist the member with questions about the referral.
 - If due to deployment or geographical isolation, compliance with the foregoing is "impractical," then the CO must provide written explanation to member.
- In "emergency" CO's first priority is to protect member/potential victims from harm. CO must:
 - Make every effort to consult with MHP, or if not available, another privileged healthcare provider, prior to referring or sending member for a MHE.
 - As soon as practical, convey member to nearest MHP, or, if unavailable, a physician or senior non-physician provider present.
 - As soon as practical, notify member of process and statement of rights mentioned above. Even in an emergency member retains rights, but notification of rights will not take precedence over safety of the member or others and may be delayed until practical to do so.
 - If due to "emergency," CO is unable to consult with MHE or other healthcare provider prior to transporting member for MHE, CO must forward, as soon as practical, by fax/overnight mail/or courier, memo documenting basis for emergency referral to healthcare provider.

Definitions:

- Mental Healthcare Provider: A psychiatrist or doctor-level clinical psychologist/social worker.
- Mental Health Evaluation (MHE): A clinical assessment for mental, physical, or personality disorder to determine clinical mental health status and/or suitability for service.
- Emergency: CO determines by "clear and reasoned judgment" that member is threatening imminently to harm (serious bodily injury or death) himself, others, or to destroy property, and to delay MHE to complete administrative requirements could further endanger the life or well being of the member or others. An emergency with respect to self also means an incapacity to care for oneself by not eating or drinking; sleeping in appropriate places or not maintaining regular sleep schedule; nor bathing; defecating or urinating in appropriate places.

¹ This paper applies to referrals of military members for MHE. Contact OCHR for guidance relating to civilian employees.