Comments of the Independent Regulatory Review Commission

Municipal Police Officers' Education and Training Commission Regulation #17-90 (IRRC #3495)

Law Enforcement Mental Health Evaluations

November 4, 2026

We submit for your consideration the following comments on the proposed rulemaking published in the September 5, 2026 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (RRA) (71 P.S. § 745.5b). Section 5.1(a) of the RRA (71 P.S. § 745.5a(a)) directs the Municipal Police Officers' Education and Training Commission (Commission) to respond to all comments received from us or any other source.

1. Section 261a.1. Scope. – Clarity.

This section explains that this rulemaking establishes rules for a law enforcement agency to provide a law enforcement officer with a mental health evaluation for post-traumatic stress disorder (PTSD). Although the term "treatment" is not referenced in this section in the context of a mental health evaluation, it is included in the following documents related to this section: temporary regulations (51 Pa.B. 1512 (March 20, 2021)), Act 59 of 2020 (act), the Preamble to this rulemaking, and Sections 261a.3 and 261a.4 of the proposed Annex. A commenter also suggests that the regulation not just address an evaluation but also the treatment of law enforcement officers. Given the use of the term "treatment" in the aforementioned documents and the suggestion made by the commenter, we ask the Commission to explain why this term is not included in the scope of a mental health evaluation for PTSD in this section.

2. Section 261a.2. Definitions. – Clarity; Need.

In the definition of "Essential job functions of a police officer," there is reference to "the [C]ommission's 2012 job task analysis." If this job task analysis changes or is updated in the future, the Commission will have to update its regulations. To avoid such an update and to allow for flexibility as essential functions may evolve over time, we suggest that the Commission remove the reference to this year-specific analysis and instead provide a link to the Commission's website or identify where this analysis can be located.

Additionally, the Pennsylvania Medical Society (PAMED) and Pennsylvania Psychiatric Society (PaPS) have expressed concerns about the definitions of "licensed physician" and "licensed mental health professional."

The definition of "licensed physician" in the proposed regulation states, in part, "A physician licensed in this Commonwealth and board certified in psychiatry by a certification board

generally recognized in this Commonwealth in the field of psychiatry." In its comments, PAMED notes that board certification "is voluntary and neither a condition of licensure nor a legal requirement for the practice of psychiatry." PAMED acknowledges that some employers may require board certification as a condition of employment and credentialing but asserts that it is not necessary to codify certification in the regulation. PAMED requests that the Commission consult with them to revise the definition.

PaPS notes that the definition of "licensed physician" includes "a certified registered nurse practitioner [CRNP] or physician assistant [PA] who is practicing within the scope of their licensure and working under appropriate collaboration or supervision with the physician." PaPS comments that including CRNPs and PAs in the definition of "licensed physician" is inappropriate. Additionally, PaPS notes that the definition of "licensed mental health professional" includes "[a] licensed physician licensed in this Commonwealth," but the definition of "licensed physician" specifies that the physician must be board certified in psychiatry, creating inconsistency between the two definitions. To address their concerns, PaPS proposes alternative language for the definition of "licensed mental health professional."

Given the issues raised by PAMED and PaPS, we ask the Commission to review the definitions to determine if amendments are needed to ensure clarity for the regulated community.

Finally, the phrase "includes, but is not limited to" is found in the definition of the term "mental health evaluation." The *Pennsylvania Code and Bulletin Style Manual (Manual)* recommends that this phrase not be included in regulations. Instead, the term "includes" should be used. We recommend that the final-form regulation be amended in accordance with the *Manual*.

3. Section 261a.3. Duties of law enforcement agency. – Legislative Intent; Need; Reasonableness; Clarity.

This section requires a law enforcement agency to provide a law enforcement officer with a mental health evaluation for PTSD. Subsection (b)(2) requires a law enforcement agency to notify the Commission when a mental health evaluation results in the law enforcement officer being diagnosed with PTSD, while subsection (b)(2)(iii) says that such notification may not include information regarding the diagnosis of the law enforcement officer. Campbell Durrant, P.C. expresses concerns about the clarity of these two subsections and suggests that "[i]f the intention is to require sharing of the diagnosis with the Commission, then there would seem to be a clearer manner to state this rather than the language contained in these two, somewhat contradictory sections." We ask that the Commission work with this commenter to clarify this section.

Additionally, the Fraternal Order of Police, Pennsylvania State Lodge (FOP) requests that subsection (b)(2) be stricken altogether because the broad disclosure of PTSD diagnoses to the Commission exceeds the letter and intent of the act. The FOP also contends that the reporting requirement in subsection (d) is neither necessary nor required by the act, and should be removed from the regulation. We ask that the Commission address this commenter's request and explain in the final regulation the necessity of and reasonableness for this reporting requirement.

4. Section 261a.4. Duties of law enforcement officer. – Clarity.

This section provides for the requirements that a law enforcement officer must follow when he or she is subject to a mental health evaluation. Campbell Durrant, P.C. suggests that the Commission add language making a law enforcement officer meet the requirements in this section as a condition of continued employment. Although the act addresses such a condition, we ask the Commission to clarify whether all of the listed requirements in this section are conditions of continued employment.