

# **PENDING FEE RULES**

## **COMMITTEE RULES**

### **REVIEW BOOK**

Submitted for Review Before  
**Senate Judiciary & Rules Committee**  
64th Idaho Legislature  
First Regular Session -- 2017



*Prepared by:*

*Office of the Administrative Rules Coordinator  
Department of Administration*

*January 2017*

***SENATE JUDICIARY & RULES COMMITTEE***

***ADMINISTRATIVE RULES REVIEW***

***Table of Contents***

***2017 Legislative Session***

***IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD***

***57.01.01 – Rules of the Sexual Offender Management Board***

Docket No. 57-0101-1601 .....3

## **IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD**

### **57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD**

**DOCKET NO. 57-0101-1601**

#### **NOTICE OF RULEMAKING – ADOPTION OF PENDING FEE RULE**

**EFFECTIVE DATE:** This rule has been adopted by the agency and is now pending review by the 2017 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

**AUTHORITY:** In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 18-8314, Idaho Code.

**DESCRIPTIVE SUMMARY:** The following is a concise explanatory statement of the reasons for adopting the pending fee rule and a statement of any change between the text of the proposed rule and the text of the pending fee rule with an explanation of the reasons for the change:

There are no changes to the pending fee rule and it is being adopted as originally proposed. The complete text of the proposed rule was published in the October 5, 2016 Idaho Administrative Bulletin, [Vol. 16-10, pages 775-786](#).

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased. This fee or charge is being imposed pursuant to Section 18-8314, Idaho Code.

With this rulemaking, the current single level of post-conviction sexual offender polygraph examiner certification will be replaced by two (2) certification levels. The existing application processing fee structure will be applicable to both certification levels as follows:

Seventy-five dollars (\$75) for initial senior/approved or associate/supervised level post-conviction sexual offender polygraph examiner certification applications and fifty dollars (\$50) for biennial certification renewal applications for both certification levels.

This fee structure is consistent with that already imposed by the SOMB for senior/approved and associate/supervised level psychosexual evaluator as well as senior/approved and associate/supervised level sexual offender treatment provider certification applicants.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year:

The SOMB does not anticipate any fiscal impact to the state general fund from the Rule changes resulting from this rulemaking.

**ASSISTANCE ON TECHNICAL QUESTIONS:** For assistance on technical questions concerning this pending fee rule, contact Aileen Lucas at (208) 658-2146.

DATED this 5th day of December, 2016.

Aileen Lucas, Administrative Assistant  
Sexual Offender Management Board  
1299 N. Orchard Street, Ste. 110  
Boise, ID 83706  
Phone: (208) 658-2146  
Fax: (208) 287-3322  
E-mail: [somb@idoc.idaho.gov](mailto:somb@idoc.idaho.gov)

**THE FOLLOWING NOTICE WAS PUBLISHED WITH THE PROPOSED RULE**

**AUTHORITY:** In compliance with Section 67-5221(1), Idaho Code, notice is hereby given that this agency has initiated proposed rulemaking procedures. The action is authorized pursuant to Section 18-8314, Idaho Code.

**PUBLIC HEARING SCHEDULE:** Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than October 19, 2016.

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

**DESCRIPTIVE SUMMARY:** The following is a nontechnical explanation of the substance and purpose of the proposed rulemaking:

Incorporates by reference amendments to previously adopted SOMB's Standards and Guidelines for Adult Sexual Offender Management Practices, and the Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders to provide the following: an extension on the timeframe for psychosexual evaluator and sex offender treatment provider certification applicants to meet the clinical experience requirements; clarification of specialized training requirements for dual population certification applicants; modification of supervision requirements for provisional-level psychosexual evaluators and sex offender treatment providers to accommodate a less restrictive level of supervision; elimination of a now-unnecessary criteria exception provision for psychosexual evaluators; clarification of conditional waiver provisions for psychosexual evaluator and sex offender treatment provider applicants; creation of conditional waiver provisions for post-conviction sexual offender polygraph examiner applicants with inclusion of an extension provision for "good cause"; reduction of quality assurance monitoring measures for psychosexual evaluators and treatment providers to a level that is supported by the SOMB's available resources; replacement of the single level of certification for post-conviction sex offender polygraph examiners with senior and associate-level certifications to accommodate examiners who are new to the field; placement of those who are currently certified as post-conviction sex offender polygraph examiners in the senior level of certification if qualifications are met; the continuing education requirements for post-conviction sex offender polygraph examiners will be brought into line with the requirements established by the American Polygraph Association; modification of the formal education provision for post-conviction sex offender polygraph examiners; and make technical corrections. Technical corrections will also be made to associated forms.

**FEE SUMMARY:** The following is a specific description of the fee or charge imposed or increased:

Section 18-8314, Idaho Code, provides authority for the agency to collect fees for provider certification processing. With this rulemaking, the current single level of post-conviction sexual offender polygraph examiner certification will be replaced by two (2) certification levels.

The existing application processing fee structure will be applicable to both certification levels as follows:

- 1) Seventy-five dollars (\$75) for initial senior/approved or associate/supervised level post-conviction sexual offender polygraph examiner certification applications; and
- 2) Fifty dollars (\$50) for biennial certification renewal applications for both certification levels.

This fee structure is consistent with that already imposed by the SOMB for senior/approved and associate/supervised level psychosexual evaluator and sexual offender treatment provider certification applicants.

**FISCAL IMPACT:** The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year resulting from this rulemaking:

The SOMB does not anticipate any fiscal impact to the state general fund from the Rule changes resulting from this rulemaking.

**NEGOTIATED RULEMAKING:** Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 3, 2016 Idaho Administrative Bulletin, **Volume 16-8, page 129**.

The agency directly notified the impacted psychosexual evaluators, sexual offender treatment providers and post-conviction sex offender polygraph examiners to solicit feedback on the standards modifications as well as posted the documents on its website. Forums for discussion and comments were also offered to complete drafting of the standards modifications and proposed modifications to the IDAPA Rule language.

**INCORPORATION BY REFERENCE:** Pursuant to Section 67-5229(2)(a), Idaho Code, the following is a brief synopsis of why the materials cited are being incorporated by reference into this rule:

The Sexual Offender Management Board is legislatively mandated to establish standards, qualification and certification procedures for post-conviction psychosexual evaluations/evaluators; sexual offender treatment and the providers who offer these services; and post-conviction sexual offender polygraph examiners. Rulemaking authority was granted to the board to carry out these provisions.

The practice standards and certification qualifications established by the agency pursuant to Section 18-8314, Idaho Code, are compiled into documents entitled "Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices"; Sexual Offender Management Board's "Required Format for Adult Psychosexual Evaluation Reports;" "Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders;" Sexual Offender Management Board's "Required Format for Juvenile Psychosexual Evaluation Reports," which are all incorporated by reference into this rulemaking to give them the force and effect of law. These documents are not being reprinted in this chapter of rules due to their length and format as well as the cost for republication. They can be found on the agency's website: <http://somb.idaho.gov>

Further, the existing reference to the incorporated document "Bylaws of the American Polygraph Association" is being updated to reflect a new effective date.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS:** For assistance on technical questions concerning the proposed rule, contact Aileen Lucas at (208) 658-2146.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 26, 2016.

DATED this 18th day of August, 2016.

### **LSO Rules Analysis Memo**

**THE FOLLOWING IS THE TEXT OF FEE DOCKET NO. 57-0101-1601**

**004. INCORPORATION BY REFERENCE.**

The following documents are incorporated by reference into these rules: (3-20-14)

**01. "Association for the Treatment of Sexual Abusers Professional Code of Ethics,"** 2001 revision, is herein incorporated by reference and is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005, Website <http://www.atsa.com/>. (3-20-14)

**02. "Association for the Treatment of Sexual Abusers Practice Guidelines for the Assessment,**

**Treatment and Management of Male Adult Sexual Abusers,** 2014 edition, is herein incorporated by reference and is available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005, website <http://www.atsa.com/>. (4-11-15)

**03. “Bylaws and Constitution of the American Association of Police Polygraphists,”** effective May, 2010, is herein incorporated by reference and is available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068, website <http://www.policepolygraph.org/>. (3-20-14)

**04. “Bylaws of the American Polygraph Association,”** effective ~~January~~ **September** 201~~2~~**5**, is herein incorporated by reference and is available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website <http://www.polygraph.org/>. (~~3-20-14~~)(    )

**05. “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices,”** ~~edition 2013 November~~, **December** 201~~3~~**6** revision, is herein incorporated by reference and is available from the Board’s office and on the Board website, <http://somb.idaho.gov/>. (~~3-20-14~~)(    )

**06. “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders,”** ~~November~~ **December** 201~~4~~**6** ~~edition~~ **revision**, is herein incorporated by reference and is available from the Board's office and on the Board's website, <http://somb.idaho.gov/>. (~~4-11-15~~)(    )

**07. The Sexual Offender Management Board's “Required Format for Juvenile Psychosexual Evaluation Reports,”** ~~effective December~~ 201~~5~~**6** ~~revision~~, is herein incorporated by reference and is available from the Board's office and on the Board's website, <http://somb.idaho.gov/>. (~~4-11-15~~)(    )

**08. The Sexual Offender Management Board’s “Required Format for Adult Psychosexual Evaluation Reports,”** ~~effective December~~ 201~~5~~**6** ~~revision~~, is herein incorporated by reference and is available from the Board’s office and on the Board’s website, <http://somb.idaho.gov/>. (~~4-11-15~~)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**010. DEFINITIONS.**

**01. Board.** The Sexual Offender Management Board described in Section 18-8312, Idaho Code. (3-20-14)

**02. Central Roster.** A roster of evaluators, treatment providers and polygraph examiners, who meet the qualifications and are certified by the Board to conduct psychosexual evaluations, provide sexual offender treatment or conduct post-conviction sexual offender polygraphs. (3-20-14)

**03. Certificate Holder.** A person who has been approved by the Board and certified as meeting qualifications to conduct or assist in the conduct of psychosexual evaluations, provide sexual offender treatment or conduct post conviction sexual offender polygraphs. (3-20-14)

**04. Certified Evaluator.** Either a psychiatrist licensed by this state pursuant to Title 54, Chapter 18, Idaho Code, or a master’s or doctoral level mental health professional licensed by this state pursuant to Title 54, Chapters 23, 32, or 34, Idaho Code. The evaluator shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, shall meet the qualifications and shall be approved by the Board to perform psychosexual evaluations in this state, as described in Section 18-8314, Idaho Code. A person meeting this definition may be certified by the Board as either a senior/approved certified evaluator or an associate/supervised certified evaluator. (3-20-14)

**05. Certified Post Conviction Sex Offender Polygraph Examiner.** A polygraph examiner who has received specialized post conviction sexual offender testing training, and who is certified by the Board to conduct post conviction sexual offender polygraph examinations as ordered or required by the court, Idaho Department of

Correction, or Idaho Commission for Pardons and Parole. A person meeting this definition may be certified by the Board as either a senior/approved post conviction sexual offender polygraph examiner or an associate/supervised post conviction sexual offender polygraph examiner. ~~(3-20-14)~~( )

**06. Certified Treatment Provider.** A person who has been certified by the Board as meeting qualifications to provide sexual offender treatment as ordered by the court, Idaho Department of Correction, Idaho Commission for Pardons and Parole, or Idaho Department of Juvenile Corrections. Such person shall be licensed by this state or another state or jurisdiction as a psychiatrist, or a master's or doctoral level mental health professional, and who has by education, experience and training, expertise in the treatment of sexual offenders. A person meeting this definition may be certified by the Board as either a senior/approved sex offender treatment provider or an associate/supervised sex offender treatment provider. (3-20-14)

**07. Client.** An adult or juvenile receiving services from a person certified by the Board pursuant to Section 18-8314, Idaho Code. (4-11-15)

**08. Established Standards.** The "Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices" and the "Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders" as referenced in Section 004 of these rules and established pursuant to Section 18-8314, Idaho Code. (4-11-15)

**09. Provisional/Supervised Psychosexual Evaluator.** A person with limited clinical experience and specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to assist with the conduct of psychosexual evaluations under the ~~direct~~ **clinical** supervision of a senior/approved psychosexual evaluator. A person with a provisional/supervised psychosexual evaluator certificate is not considered to be a certified evaluator as defined in Section 18-8303, Idaho Code or for the purposes of conducting a psychosexual evaluation in accordance with Section 18-8316, Idaho Code. Certification approval is specific to adult or juvenile clients. ~~(4-11-15)~~( )

**10. Provisional/Supervised Sex Offender Treatment Provider.** A person with limited clinical experience and specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to provide sexual offender treatment under the ~~direct~~ **clinical** supervision of a senior/approved sex offender treatment provider. Certification approval is specific to adult or juvenile clients. ~~(4-11-15)~~( )

**11. Psychosexual Evaluation.** A comprehensive evaluation and assessment specifically addressing a person's sexual development, sexual deviancy, sexual history and risk of re-offense. A psychosexual evaluation for the purpose of these rules is conducted post conviction, as ordered by the court pursuant to Section 18-8316, Idaho Code, or Title 20, Chapter 5, Idaho Code, by a person who has been certified by the Board. (4-11-15)

**12. Quality Assurance.** Processes established by the Board to review psychosexual evaluations and sexual offender treatment procedures to assure minimum standards and certificate holder qualifications are met. All quality assurance reviews will be conducted under the direction of the Board. (3-20-14)

**13. Sexual Offender.** A person adjudicated or convicted of an offense as listed in Section 18-8304, Idaho Code, or a substantially equivalent offense under the laws of another state, territory, commonwealth, or other jurisdiction of the United States including tribal courts and military courts; or who has been adjudicated or convicted of a sexual offense-related crime. (4-11-15)

**14. Sexual Offender Classification Board.** A board in effect from 1998 to 2011 that determined whether a sexual offender should be designated as a violent sexual predator; set certified evaluator qualifications and standards; and administered an evaluator certification process. (3-20-14)

**15. Supervision.** (3-20-14)

**a.** For purposes of clinical practice supervision for associate/supervised psychosexual evaluator or associate/supervised sex offender treatment provider certification, supervision is generally considered as face-to-face direct contact, documented teleconferencing, or interactive video conferencing with a Board-approved supervisor



using a ratio of one (1) hour of clinical supervision for every twenty (20) hours of direct service provided; or (3-20-14)

**b.** For purposes of clinical practice supervision for provisional/supervised psychosexual evaluator or provisional/supervised treatment provider certification, supervision is considered as continual face-to-face direct contact with a Board-approved supervisor for the first two hundred fifty (250) hours of direct service provided followed by face-to-face direct contact with a Board-approved supervisor using a ratio of one (1) hour of clinical supervision for every fifteen (15) hours of direct service provided; or. (~~3-20-14~~)( )

**c.** For purposes of supervision for associate/supervised post conviction sexual offender polygraph examiners, supervision is generally considered as face-to-face direct contact with a Board-approved supervisor during conduct of the supervisee's first five (5) PCSOT polygraphs followed by review by a Board-approved supervisor of one (1) PCSOT polygraph for every five (5) PCSOT polygraphs conducted by the supervisee. Such review shall include chart and report review. ( )

**16. Treatment.** For purposes of certification eligibility the provision of face-to-face individual, group, or family therapy with a person who has been investigated by law enforcement or child protective services for commission of a sexual offense, or who has been adjudicated or convicted of a sexual offense or sexual offense-related crime. Treatment must be directly relevant to the client's sexually offending behavior. (3-20-14)

**17. Violent Sexual Predator.** A person who was designated as a violent sexual predator by the Sexual Offender Classification Board where such designation has not been removed by judicial action or otherwise. (3-20-14)

**011. ABBREVIATIONS.**

- ~~01.~~ **01.** APA. The American Polygraph Association. ( )
- ~~02.~~ **02.** ATSA. The Association for the Treatment of Sexual Abusers. (3-20-14)
- ~~03.~~ **03.** DSM. The "Diagnostic and Statistical Manual of Mental Disorders," published by the American Psychiatric Association. (3-20-14)
- ~~04.~~ **04.** IDOC. The Idaho Department of Correction. (3-20-14)
- ~~05.~~ **05.** IDJC. The Idaho Department of Juvenile Corrections. (4-11-15)
- ~~06.~~ **06.** PCSOT. "Post conviction sexual offender testing" is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post convicted sexual offenders. (~~3-20-14~~)( )
- ~~07.~~ **07.** SOCB. The Sexual Offender Classification Board. (3-20-14)
- ~~08.~~ **08.** SOMB. The Sexual Offender Management Board. (3-20-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**041. LEVELS OF PSYCHOSEXUAL EVALUATOR CERTIFICATION.**

The Board issues certificates within three (3) levels reflective of a person's training and experience specific to the population to be served: (4-11-15)

**01. Senior/Approved Psychosexual Evaluator.** (3-20-14)

**a.** Possesses a valid Idaho license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)



**b.** Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of one thousand five hundred (1,500) hours ~~which were~~ Of this requirement, a minimum of five hundred (500) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; and (3-20-14)(    )

**c.** Has conducted a minimum of nine (9) psychosexual evaluations within the three (3) years preceding an initial application for certification at this level. (3-20-14)

**02. Associate/Supervised Psychosexual Evaluator.** (3-20-14)

**a.** Possesses a valid Idaho license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)

**b.** Has engaged in a combination of supervised direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of five hundred (500) hours ~~which were~~ Of this requirement, a minimum of three hundred (300) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; (3-20-14)(    )

**c.** Has conducted a minimum of six (6) psychosexual evaluations within the three (3) years preceding an initial application for certification at this level; and (3-20-14)

**d.** Shall only conduct psychosexual evaluations under the clinical practice supervision of a Board-approved supervisor as defined in Paragraph 010.15.a. of these rules, and under the terms of a formal clinical supervision agreement. (3-20-14)

**03. Provisional/Supervised Psychosexual Evaluator.** (3-20-14)

**a.** Possesses or is currently enrolled in a graduate program of study toward the attainment of a master's or doctoral degree, preferably with an emphasis on the application of forensic clinical practice; (3-20-14)

**b.** Possesses or is pursuing a valid license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist; (3-20-14)

**c.** May assist with the conduct of psychosexual evaluations only under the direct clinical supervision of a Board-approved supervisor as defined in Paragraph 010.15.b. of these rules, and under the terms of a formal clinical supervision agreement. Face-to-face supervision is required when providing direct clinical services to sex offenders. (3-20-14)(    )

**(BREAK IN CONTINUITY OF SECTIONS)**

**081. LEVELS OF SEXUAL OFFENDER TREATMENT PROVIDER CERTIFICATION.**

The Board issues certificates within three (3) levels reflective of a person's training and experience specific to the population to be served: (4-11-15)

**01. Senior/Approved Sexual Offender Treatment Provider.** (3-20-14)

**a.** Possesses a valid license to practice in this state or another state or jurisdiction as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist; and (3-20-14)

**b.** Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of one thousand five hundred (1,500) hours ~~which were~~ Of this requirement, a minimum of five hundred (500) combined hours shall have been accumulated within the three (3)

years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board. (3-20-14)( )

**02. Associate/Supervised Sexual Offender Treatment Provider.** (3-20-14)

**a.** Possesses a valid license to practice in this state or another state or jurisdiction as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)

**b.** Has engaged in a combination of supervised direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of five hundred (500) hours ~~which were~~ Of this requirement, a minimum of three hundred (300) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; and (3-20-14)( )

**c.** Shall only provide treatment services under the clinical practice supervision of a Board-approved supervisor as defined in Paragraph 010.15.a. of these rules, and under the terms of a formal clinical supervision agreement. (3-20-14)

**03. Provisional/Supervised Sexual Offender Treatment Provider.** (3-20-14)

**a.** Possesses or is currently enrolled in a graduate program of study toward the attainment of a master's or doctoral degree, preferably with an emphasis on the application of forensic clinical practice; and (3-20-14)

**b.** Possesses or is pursuing a valid license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)

**c.** Shall only provide treatment services under the direct clinical supervision of a Board-approved supervisor as defined in Paragraph 010.15.b. of these rules, and under the terms of a formal clinical supervision agreement. Face-to-face supervision is required when providing direct clinical services to sex offenders. (3-20-14)( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**150. REQUEST FOR CONDITIONAL WAIVER.**

**01. Conditional Waiver.** The Board may consider an applicant's request for a time limited conditional waiver for deficiencies in experience and specialized training qualifications as set forth in the established standards issued by the Board. ~~Conditional waiver requests shall only be considered for psychosexual evaluator or sexual offender treatment provider applicants at the senior/approved or associate/supervised level.~~ (3-20-14)( )

**02. Duration.** A conditional waiver is limited to a period of two (2) years. Conditional waivers may ~~not~~ be extended ~~or renewed after the third year~~ for one (1) year upon a finding of good cause. (3-20-14)( )

**03. Frequency.** A conditional waiver request shall only be considered one (1) time each for: ( )

**a.** An initial certification application for psychosexual evaluator and sexual offender treatment provider applicants at the senior/approved or associate/supervised level; ( )

**b.** A renewal certification application for psychosexual evaluator and sexual offender treatment provider applicants at the senior/approved or associate/supervised level; ( )

**c.** A renewal certification application for post conviction sexual offender polygraph examiner applicants at the senior/approved level; and ( )

**d.** A person certified as an associate/supervised post conviction sexual offender polygraph examiner who, after the two (2) year time limitation at this status has expired, does not meet qualifications for advancement to post conviction sexual offender polygraph examiner certification at the senior/approved level. ( )

**04. Good Cause.** Good cause may include the certificate holder experiencing a period of physical disability, serious illness, hardship, or other extenuating circumstances accepted by the Board. ( )

**151. ~~CRITERIA EXCEPTION FOR PSYCHOSEXUAL EVALUATORS. (RESERVED)~~**

~~Any person currently certified by the Board to conduct psychosexual evaluations on the date the established standards issued by the Board become effective and in force will be granted continued certification by the Board upon application. The certificate holder shall be assigned to the level of certification reflective of his training and experience in accordance with the established standards issued by the Board.~~ (3-20-14)

**(BREAK IN CONTINUITY OF SECTIONS)**

**201. LEVELS OF POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER CERTIFICATION.**

The Board issues certificates within two (2) levels reflective of a person's experience in conducting post conviction sexual offender polygraphs. ( )

**01. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner.** ( )

**a.** Has graduated from an APA-accredited polygraph school; ( )

**b.** Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; ( )

**c.** Has successfully completed a minimum of one hundred (100) polygraph examinations. Of this requirement, a minimum of ten (10) sexual history polygraph examinations and a minimum of ten (10) PCSOT maintenance polygraph examinations shall have been conducted within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; ( )

**02. Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner.** ( )

**a.** Has graduated from an APA-accredited polygraph school; ( )

**b.** Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; ( )

**c.** Shall only conduct polygraphs under the supervision of a Board-approved supervisor as defined in Paragraph 010.15.c. of these rules, and under the terms of a formal supervision agreement. ( )

**202. CRITERIA EXCEPTION FOR POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINERS.**

A person currently certified by the Board to conduct post conviction sexual offender polygraph examinations on the date the established standards issued by the Board for senior/approved and associate/supervised level post conviction sexual offender polygraph examiners become effective and in force will be granted continued certification by the Board upon application. Within sixty (60) days of the standards going into effect, the certificate holder will be required to submit information as to the number of polygraph examinations completed and will be assigned to either the senior/approved or associate/supervised post conviction sexual offender polygraph examiner certification level pursuant to Section 201 of these rules. ( )

~~2073.~~ -- ~~22930.~~ (RESERVED)

~~**230. SPECIALIZED TRAINING FOR POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINERS.**~~

~~*For initial certification as a post conviction sexual offender polygraph examiner, an applicant must have successfully completed a minimum of forty (40) hours of formal post conviction sex offender polygraph testing (PCSOT) training, beyond the basic polygraph training course requirements, from an accredited American Polygraph Association program or school.*~~ (3-20-14)

**231. CONTINUING EDUCATION FOR POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINERS.**

To maintain certification as a post conviction sexual offender polygraph examiner, a certificate holder must receive a minimum of ~~forty (40)~~ **thirty (30)** hours of continuing education related to the field of polygraphy in the form of formal conferences, symposia, seminars, or workshops over the course of the two (2) year period prior to each renewal period as set forth in the established standards issued by the Board. ~~Twenty (20) hours of such continuing education shall pertain to specialized sexual offender polygraph training.~~ (3-20-14) ( )

~~232.~~ -- 299. (RESERVED)

**300. STANDARDS FOR PROFESSIONAL CONDUCT AND CLIENT RELATIONS.**

**01. General Considerations for Certified Evaluators and Certified Treatment Providers.** Each person who is certified by the Board to conduct or assist with the conduct of psychosexual evaluations or provide sexual offender treatment shall: (3-20-14)

**a.** Adhere to the ethical principles and codes, and all practice standards and guidelines for the person's respective discipline and area of professional licensure; (3-20-14)

**b.** Adhere to the ATSA treatment philosophy, the ATSA Professional Code of Ethics, and the ATSA Practice Guidelines, as referenced in Section 004 of these rules; (4-11-15)

**c.** Be knowledgeable of statutes and scientific data relevant to specialized sexual offender evaluation and sexual offender treatment; (3-20-14)

**d.** Be familiar with the statutory requirements for assessments and reports for the courts, pursuant to Section 18-8316, Idaho Code; (3-20-14)

**e.** Be committed to community protection and safety; (3-20-14)

**f.** Provide services in a manner that ensures humane and ethical treatment of clients; (3-20-14)

**g.** Conduct testing in accordance with the person's licensing body, qualifications and experience, and in a manner that ensures the integrity of testing data; (3-20-14)

**h.** Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; and (3-20-14)

**i.** Have no sexual relationships with any client. (3-20-14)

**02. General Considerations for Certified Post Conviction Sexual Offender Polygraph Examiners.** Each person who is certified by the Board to conduct post conviction sexual offender polygraph examinations shall: (3-20-14)

**a.** Adhere to the ethical principles and codes, and all practice standards and guidelines for the person's discipline, area of professional practice, or licensure as promulgated by any applicable regulatory board or licensing authority; (3-20-14)

- b. Adhere to the standards and guidelines specific to post conviction sexual offender testing as promulgated by the American Polygraph Association APA; (3-20-14)( )
- c. Adhere to the ethical principles and codes, and all practice standards and guidelines for the administration of polygraph examinations generally, as promulgated by the American Polygraph Association APA or the American Association of Police Polygraphists, as referenced in Section 004 of these rules; (3-20-14)( )
- d. Adhere to the current practice standards and guidelines pertaining to post conviction sexual offender polygraphs within the context of sexual offender management as established by the Association for the Treatment of Sexual Abusers ATSA, as referenced in Section 004 of these rules; (3-20-14)( )
- e. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; (4-11-15)
- f. Have no sexual relationships with any client; ~~and~~ (4-11-15)( )
- g. Take factors such as age, mental capacity and co-occurring mental health concerns into consideration when utilizing polygraphy with juvenile offenders. (4-11-15)
- h. Be committed to community protection and safety; and ( )
- i. Provide services in a manner that ensures humane and ethical treatment of clients. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**332. FEES.**

The following non-refundable application processing fees are established by the Board: (3-20-14)

- 01. Initial Certification.** Application processing fees for initial certification shall be: (3-20-14)
  - a. Senior/Approved Psychosexual Evaluator, ~~or~~ Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). (3-20-14)( )
  - b. Associate/Supervised Psychosexual Evaluator, ~~or~~ Treatment Provide, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). (3-20-14)( )
  - c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Fifty dollars (\$50). (3-20-14)
  - ~~d. Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). (3-20-14)~~
- 02. Renewal Certification.** Application processing fees for renewal certification shall be: (3-20-14)
  - a. Senior/Approved Psychosexual Evaluator, ~~or~~ Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). (3-20-14)( )
  - b. Associate/Supervised Psychosexual Evaluator, ~~or~~ Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). (3-20-14)( )
  - c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Thirty dollars (\$30). (3-20-14)
  - ~~d. Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). (3-20-14)~~
- 03. Change in Certification Level.** Application processing fees for a change in certification level shall

be as referenced in Section 155 of these rules.

(3-20-14)

**333. CERTIFICATION PERIOD.**

Provided that the certificate holder continues to meet the criteria for certification and such certification has not been suspended, revoked, otherwise restricted or placed on voluntary inactive status, the effective period for certification is as follows: (3-20-14)

**01. Senior/Approved Psychosexual Evaluator or Treatment Provider.** Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder's month of birth two (2) years following initial certification and every two (2) years thereafter, unless extended by conditional waiver. (3-20-14)( )

**02. Associate/Supervised Psychosexual Evaluator or Treatment Provider.** Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder's month of birth two (2) years following initial certification and every two (2) years thereafter, unless extended by conditional waiver. (3-20-14)( )

**03. Provisional/Supervised Psychosexual Evaluator or Treatment Provider.** Certification shall remain in effect for one (1) year. Certification renewal shall typically occur during the certificate holder's month of birth one (1) year following initial certification and annually thereafter. Certification at the provisional/supervised level is limited to a period of three (3) years, at which time the certificate holder must meet minimum requirements for upgrade to the associate/supervised level to be eligible for certification renewal. (3-20-14)

**04. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner.** Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder's month of birth two (2) years following initial certification and every two (2) years thereafter unless extended by conditional waiver. (3-20-14)( )

**05. Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner.** Certification shall remain in effect for two (2) years from the certificate holder's month of birth following initial certification. Thereafter, the certificate holder must meet minimum requirements for upgrade to the senior/approved level to be eligible for certification renewal, unless extended by conditional waiver. ( )

**(BREAK IN CONTINUITY OF SECTIONS)**

**350. CENTRAL ROSTER OF PSYCHOSEXUAL EVALUATORS, SEXUAL OFFENDER TREATMENT PROVIDERS AND POST CONVICTION SEXUAL OFFENDER POLYGRAPH PROVIDERS EXAMINERS.**

**01. Identification.** The Board shall publish a central roster of psychosexual evaluators, sexual offender treatment providers and post conviction sexual offender polygraph providers examiners pursuant to Sections 18-8312 through 18-8316, Idaho Code. The central roster shall indicate: (3-20-14)( )

- a. The certificate holder's name; (3-20-14)
  - b. The certificate holder's business address and telephone number; (3-20-14)
  - c. Whether the certificate holder is certified or approved by conditional waiver; (3-20-14)
  - d. The category and applicable level of certification; (3-20-14)
  - e. The expiration date of the certification or conditional waiver; (4-11-15)
  - f. Whether the certificate holder is approved to provide services to adult or juvenile clients, or both; (4-11-15)
- and

- g.** Current formal disciplinary action imposed on a certificate holder by the Board. (3-20-14)
- 02. Availability.** A copy of the central roster may be obtained from the Board, and shall be posted on the Board's website. (3-20-14)