

Dear Senators LODGE, Vick, Bock, and
Representatives WILLS, Luker, Burgoyne:

The Legislative Services Office, Research and Legislation, has received the enclosed rules of the Sexual Offender Management Board:

IDAPA 57.01.01 - Rules Governing the Sexual Offender Management Board (Docket No. 57-0101-1201) - **Chapter Repeal - Temporary and Proposed;**

IDAPA 57.01.01 - Rules Governing the Sexual Offender Management Board (Docket No. 57-0101-1202) – **Chapter Rewrite - Temporary and Proposed Fee Rule.**

Pursuant to Section 67-454, Idaho Code, a meeting on the enclosed rules may be called by the cochairmen or by two (2) or more members of the subcommittee giving oral or written notice to Research and Legislation no later than fourteen (14) days after receipt of the rules analysis from Legislative Services. The final date to call a meeting on the enclosed rules is no later than 11/01/2013. If a meeting is called, the subcommittee must hold the meeting within forty-two (42) days of receipt of the rules analysis from Legislative Services. The final date to hold a meeting on the enclosed rules is 12/03/2013.

The germane joint subcommittee may request a statement of economic impact with respect to a proposed rule by notifying Research and Legislation. There is no time limit on requesting this statement, and it may be requested whether or not a meeting on the proposed rule is called or after a meeting has been held.

To notify Research and Legislation, call 334-4845, or send a written request to the address on the memorandum attached below.



Jeff Youtz
Director

Legislative Services Office Idaho State Legislature

Serving Idaho's Citizen Legislature

MEMORANDUM

TO: Rules Review Subcommittee of the Senate Judiciary & Rules Committee and the House Judiciary, Rules & Administration Committee

FROM: Principal Legislative Research Analyst - Brooke Brouman

DATE: October 15, 2013

SUBJECT: Sexual Offender Management Board

IDAPA 57.01.01 - Rules Governing the Sexual Offender Management Board (Docket No. 57-0101-1201)
- **Chapter Repeal - Temporary and Proposed**

IDAPA 57.01.01 - Rules Governing the Sexual Offender Management Board (Docket No. 57-0101-1202)
-- **Chapter Rewrite - Temporary and Proposed Fee Rule**

The Sexual Offender Management Board submits notice of temporary and proposed rulemaking that repeals IDAPA 57.01.01, and notice of temporary and proposed fee rulemaking that rewrites IDAPA 57.01.01 - Rules Governing the Sexual Offender Management Board. The Board states that the chapter rewrite is prompted by amendments made to Chapter 83, Title 18, Idaho Code, during the 2011 legislative session. According to the Board, the standards and guidelines established will create a higher level of consistency and continuity among Idaho's sexual offender service practitioners, as well as establish and impose statewide standards for sexual offender treatment practices. In addition, the proposed rule sets application, initial certification and renewal certification fees.

The Board states that the Governor has found that temporary adoption of the rule is appropriate in order to implement statutory changes enacted by Idaho's 2011 Legislature, for the protection of the public health, safety or welfare, and to confer a benefit.

There is no negative fiscal impact on state general funds anticipated with this rulemaking. According to the Board, provider certification processing fees are deposited into a dedicated fund.

The Board's proposed fee rule is authorized pursuant to the provisions of Section 18-8314, Idaho Code.

cc: Sexual Offender Management Board
Kathy Baird, Management Assistant

IDAPA 57 - SEXUAL OFFENDER MANAGEMENT BOARD

57.01.01 - RULES GOVERNING THE SEXUAL OFFENDER MANAGEMENT BOARD

DOCKET NO. 57-0101-1201 (CHAPTER REPEAL)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2013.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. 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 16, 2013.

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 the required finding and concise statement of the agency's supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking: Due to extensive changes necessary to implement procedures mandated of the Sexual Offender Management Board by Idaho's 2011 Legislature, the proposed rulemaking repeals this entire chapter of the existing Administrative Rule and the chapter has been re-written.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: To implement amendments to Section 18-8314, Idaho Code, as intended and enacted by Idaho's 2011 Legislature, temporary adoption of this rulemaking is appropriate for: Protection of the public health, safety or welfare; and Conferring a benefit.

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

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: N/A

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 October 3, 2012 Idaho Administrative Bulletin, [Volume 12-10, page 991](#).

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: N/A

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kathy Baird at (208) 658-2149.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 27th day of August, 2013.

Kathy Baird, Management Assistant
Sexual Offender Management Board
1299 N Orchard St Ste 110
Boise, ID 83706

Phone: (208) 658-2149
Fax: (208) 327-7102
E-mail: somb@idoc.idaho.gov

IDAPA 57.01.01 IS BEING REPEALED IN ITS ENTIRETY

PROPOSED RULE COST/BENEFIT ANALYSIS

Section 67-5223(3), Idaho Code, requires the preparation of an economic impact statement for all proposed rules imposing or increasing fees or charges. This cost/benefit analysis, which must be filed with the proposed rule, must include the reasonably estimated costs to the agency to implement the rule and the reasonably estimated costs to be borne by citizens, or the private sector, or both.

Department or Agency: Sexual Offender Management Board

Agency Contact: Kathy Baird Phone: 954-8511

Date: 10/10/13

IDAPA, Chapter and Title Number and Chapter Name:

IDAPA 57, Sexual Offender Management Board, Chapter 57.01.01 Rules of the Sexual Offender Management Board

Fee Rule Status: Proposed Temporary

Rulemaking Docket Number: 57-0101-1202

STATEMENT OF ECONOMIC IMPACT:

There are currently 15 SOMB-certified psychosexual evaluators. The board received \$825 in certification processing fees in Fiscal Year 2013, including four new certifications at a fee of \$75 each with the remaining funds from \$50 annual certification fees. With this rulemaking, certification renewals will be conducted every 2 years, with anticipated biennial receipts of \$750 from this group of providers if the number of evaluators is maintained.

The number of treatment providers and polygraph examiners who will seek certification is uncertain, as these are new certification categories. Based upon an estimate of 20 treatment providers and 12 polygraph examiners, initial certification fee receipts of \$1650 and \$1100 in biennial renewal receipts are estimated from these two groups of providers.

Additionally, these new procedures will establish entry level "provisional" evaluator and treatment provider classifications with associated initial certification fees being set at \$50 and annual certification fees being \$30. The number of individuals seeking "provisional" level certification is unknown.

Certification fees are deposited into a dedicated fund to offset the costs of administering the certification process. Statutory authorization for collection of certification processing fees is set at not to exceed \$150 for each initial and each renewal certification.

No additional costs to the SOMB are anticipated at this time to carry out the proposed Quality Assurance processes as funding is currently factored into the SOMB appropriation.

The proposed changes to the psychosexual evaluation report standards require specific testing and assessments to be conducted, which could potentially increase the costs evaluators charge to perform these evaluations, which in turn could pose an increased fiscal impact to counties who are funding court-ordered psychosexual evaluations for indigent offenders. The courts report costs to the counties in Fiscal Year 2012 for psychosexual

evaluations as totaling \$305,687, with an average range per evaluation being \$600 to \$1700. Several evaluators currently provide the quality psychosexual evaluations that are proposed in the SOMB's new standards, within the established cost range. Further, the counties are free to negotiate price as they would any service for which they contract. Many courts have been receiving psychosexual evaluations that are not consistent with best practices. There is a broad range of quality in psychosexual evaluations across the state. It is crucial for public safety that judges receive standardized, high quality psychosexual evaluations with quality risk determinations for their sentencing decisions. Idaho's certified psychosexual evaluators will be monitored by the SOMB through quality assurance measures to ensure that their post-conviction psychosexual evaluations meet the standards expected by the Board.

IDAPA 57 - SEXUAL OFFENDER MANAGEMENT BOARD

57.01.01 - RULES GOVERNING THE SEXUAL OFFENDER MANAGEMENT BOARD

DOCKET NO. 57-0101-1202 (CHAPTER REWRITE)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is November 1, 2013.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed rulemaking procedures have been initiated. 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 16, 2013.

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 the required finding and concise statement of the agency's supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This proposed rulemaking will implement and effectuate procedures that were mandated of the Sexual Offender Management Board during Idaho's 2011 legislative session, in SB1154aa.

Existing standards and procedures for psychosexual evaluations and certification of psychosexual evaluators are modified in this re-write of IDAPA 57.01.01. New statewide standards and procedures will be established for sexual offender treatment programs, sexual offender treatment providers and post-conviction sexual offender polygraph examiners that are consistent with national best practices. Additionally certification of sexual offender treatment providers and post-conviction sexual offender polygraph examiners will be implemented. This rulemaking will also establish a quality assurance process to ensure adherence to the standards and procedures, and a hearing process for disciplinary action against a certificate holder.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1)(a) and (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons:

To implement amendments to Section 18-8314, Idaho Code, as intended and enacted by Idaho's 2011 Legislature, temporary adoption of this rulemaking is appropriate for:

- Protection of the public health, safety or welfare; and
- Conferring a benefit.

The standards and guidelines established by the Sexual Offender Management Board will create a higher level of consistency and continuity among Idaho's sexual offender service practitioners, as well as establish and impose statewide standards for sexual offender treatment practices.

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, three (3) levels of provider certification will be established for psychosexual evaluators and sexual offender treatment providers, and one (1) level of certification will be established for post-conviction sexual offender polygraph examiners. The proposed application processing fee structure will be set as follows:

Seventy-five dollars (\$75) for initial certification applications and fifty dollars (\$50) for biennial certification renewal applications for: senior/approved level psychosexual evaluators, associate/supervised level psychosexual evaluators, senior/approved level sexual offender treatment providers, associate/supervised level sexual offender treatment providers, and post-conviction sexual offender polygraph examiners.

Fifty dollars (\$50) for initial certification applications and thirty dollars (\$30) for annual certification renewal applications for entry-level provisional/supervised psychosexual evaluators and provisional/supervised sexual offender treatment providers.

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:

No negative fiscal impact on state general funds is anticipated with this rulemaking. Provider certification processing fees collected by the agency are deposited into a dedicated fund. No additional costs to the agency are anticipated to carry out the quality assurance processes as funding is currently factored into the agency's budget.

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 October 3, 2012 Idaho Administrative Bulletin, [Volume 12-10, page 991](#).

The agency conducted open meetings with impacted psychosexual evaluators, sexual offender treatment providers, and polygraph examiners in addition to making direct contact with psychosexual evaluators, sexual offender treatment providers, and polygraph examiners to solicit feedback during drafting of the standards for certification qualifications and sexual offender management best practices.

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 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" edition 2013, and the Sexual Offender Management Board's "Required Format for Psychosexual Evaluation Reports" effective 2013, which are 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 and because of the cost for republication. They can be found on the agency's website, <http://socb.idaho.gov/>.

Also incorporated by reference into this rule are professional and ethical standards from nationally recognized organizations, as applicable to sexual offender management practices. These citations include:

"Association for the Treatment of Sexual Abusers Professional Code of Ethics" 2001 revision, and "Association for the Treatment of Sexual Abusers Practice Standards and Guidelines for the Evaluation, Treatment and Management of Adult Male Sexual Abusers" 2005 revision. These documents are not being reprinted in this chapter of rules due to their length and format and because of the cost for republication. They are available from the Association for the Treatment of Sexual Abusers, 4900 SW Griffith Drive, Suite 274, Beaverton, Oregon 97005.

"Bylaws and Constitution of the American Association of Police Polygraphists" effective May, 2010. This document is not being reprinted in this chapter of rules due to its length and format and because of the cost for republication. It is available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068.

"Bylaws of the American Polygraph Association" effective 2012. This document is not being reprinted in this chapter of rules due to its length and format and because of the cost for republication. It is available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Kathy Baird at (208) 658-2149.

Anyone may submit written comments regarding the proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before October 23, 2013.

DATED this 27th day of August, 2013.

Kathy Baird, Management Assistant
Sexual Offender Management Board
1299 N Orchard St Ste 110
Boise, ID 83706

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E-mail: somb@idoc.idaho.gov

**THE FOLLOWING IS THE TEMPORARY RULE AND THE TEXT OF THE PROPOSED RULE
FOR DOCKET NO. 57-0101-1202**

IDAPA 57
TITLE 01
CHAPTER 01

57.01.01 - RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD

000. LEGAL AUTHORITY.

This chapter is adopted under the legal authority of Section 18-8314(3), Idaho Code, to implement the provisions of Sections 18-8312 through 18-8316, Idaho Code. (11-1-13)T

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 57.01.01, "Rules of the Sexual Offender Management Board." (11-1-13)T

02. Scope. These rules provide procedures for the Sexual Offender Management Board to: (11-1-13)T

a. Establish certified evaluator, sexual offender treatment provider and post conviction sexual offender polygraph examiner qualifications; (11-1-13)T

b. Establish standards for psychosexual evaluations and sexual offender treatment programs based on current and evolving best practices; (11-1-13)T

c. Approve, issue, renew, deny, suspend, revoke, restrict or otherwise monitor a certification; (11-1-13)T

d. Establish fees for initial and renewal certification; (11-1-13)T

e. Establish procedures for standards and qualification quality assurance; and (11-1-13)T

f. Establish standard protocols for sexual offender management, assessment and classification. (11-1-13)T

03. Relationship to the Department of Correction. The Board is created within the Idaho

Department of Correction, and relies upon the department for fiscal and administrative support. The governor appoints the Board members. The powers and duties of the Board are separate from the Department of Correction, and are set forth in Section 18-8314, Idaho Code. (11-1-13)T

002. WRITTEN INTERPRETATIONS.

The Board may have written statements that pertain to the interpretation of the rules of this chapter. These interpretations, if any, may be found on the Board's website. (11-1-13)T

003. ADMINISTRATIVE APPEALS.

Due to the size of this board, the frequency and nature of its proceedings, it is in the best interests of the Board and those it serves to decline to adopt the majority of the procedures regarding contested cases in, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 000 through 799; however, to the extent there is no conflict between the rules of the Board and the rules of the Attorney General, certain provisions of the rules of the Attorney General are adopted or are modified herein to reflect administrative practice before the Board. (11-1-13)T

004. INCORPORATION BY REFERENCE.

The following documents are incorporated by reference into these rules: (11-1-13)T

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/>. (11-1-13)T

02. "Association for the Treatment of Sexual Abusers Practice Standards and Guidelines for the Evaluation, Treatment and Management of Adult Male Sexual Abusers" 2005 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/>. (11-1-13)T

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/>. (11-1-13)T

04. "Bylaws of the American Polygraph Association" effective January 2012, is herein incorporated by reference and is available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website <http://www.polygraph.org/>. (11-1-13)T

05. "Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices" edition 2013, is herein incorporated by reference and is available from the Board's office and on the Board website, <http://socb.idaho.gov/>. (11-1-13)T

06. The Sexual Offender Management Board's "Required Format for Psychosexual Evaluation Reports" effective 2013, is herein incorporated by reference and is available from the Board's office and on the Board's website, <http://socb.idaho.gov/>. (11-1-13)T

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS -- STREET ADDRESS -- TELEPHONE -- INTERNET WEBSITE.

The office of the Sexual Offender Management Board is located within the Idaho Department of Correction, 1299 North Orchard, Suite 110, Boise, Idaho 83706. Business hours are typically 8 a.m. to 5 p.m. Monday through Friday except legal holidays. The Board's telephone number is (208) 658-2149 and the FAX number is (208) 327-7102. The Board's official website is <http://www.somb.idaho.gov/>. (11-1-13)T

006. PUBLIC RECORDS ACT COMPLIANCE.

01. Administrative Rules. The rules contained herein are promulgated pursuant to Title 67, Chapter 52, Idaho Code, and are public records. (11-1-13)T

02. Public Records Requests. Requests for public information are processed in compliance with

IDAPA 06.01.01, “Rules of the Board of Correction”; and the Idaho Public Records Act. (11-1-13)T

007. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Sexual Offender Management Board described in Section 18-8312, Idaho Code. (11-1-13)T

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. (11-1-13)T

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. (11-1-13)T

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. (11-1-13)T

05. Certified Polygraph Examiner. A polygraph examiner who has received specialized post conviction sex 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. (11-1-13)T

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. (11-1-13)T

06. Client. A person receiving services from a person certified by the Board pursuant to Section 18-8314, Idaho Code. (11-1-13)T

08. Established Standards. The “Idaho Sexual Offender Management Board’s Standards and Guidelines for Adult Sexual Offender Management Practices,” as referenced in Section 004 of these rules and established pursuant to Section 18-8314, Idaho Code. (11-1-13)T

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 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. (11-1-13)T

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 supervision of a senior/approved sex offender treatment provider. (11-1-13)T

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, by a person who has been certified by the Board. (11-1-13)T

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. (11-1-13)T

13. Sexual Offender. A person 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. (11-1-13)T

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. (11-1-13)T

15. Supervision. (11-1-13)T

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 (11-1-13)T

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. (11-1-13)T

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. (11-1-13)T

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. (11-1-13)T

011. ABBREVIATIONS.

01. ATSA. The Association for the Treatment of Sexual Abusers. (11-1-13)T

02. DSM. The "Diagnostic and Statistical Manual of Mental Disorders," published by the American Psychiatric Association. (11-1-13)T

03. IDOC. The Idaho Department of Correction. (11-1-13)T

04. PCSOT. "Post conviction sex offender testing" is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post convicted sex offenders. (11-1-13)T

05. SOCB. The Sexual Offender Classification Board. (11-1-13)T

06. SOMB. The Sexual Offender Management Board. (11-1-13)T

012. -- 019. (RESERVED)

020. RECORDKEEPING.

01. Certificate Holders. Records on all applicants and certifications issued, renewed, denied, suspended, revoked, or otherwise monitored shall be maintained for a period not less than five (5) years. (11-1-13)T

02. Violent Sexual Predators. The file on a sexual offender who was designated as a violent sexual predator by the SOCB is maintained by the Board and is considered the official file for all purposes. (11-1-13)T

021. BOARD MEETINGS.

01. Meetings. The Board meets at least quarterly and may meet more frequently. All business of the Board is conducted in compliance with the open meeting law, pursuant to Title 67, Chapter 23, Idaho Code, and Section 18-8315, Idaho Code. (11-1-13)T

02. Agenda. An agenda for each regularly scheduled meeting is posted in compliance with Section 67-2343, Idaho Code. (11-1-13)T

022. -- 039. (RESERVED)

040. CERTIFIED EVALUATOR QUALIFICATIONS.

Each evaluator who conducts or assists with the conduct of a psychosexual evaluation pursuant to Section 18-8316, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. (11-1-13)T

01. Certification Requirements. Minimum requirements for certification as a psychosexual evaluator include criteria, requirements, and expectations in the following categories: (11-1-13)T

- a.** Formal educational requirements; (11-1-13)T
- b.** Professional licensure requirements; (11-1-13)T
- c.** Clinical experience requirements; (11-1-13)T
- d.** Specialized training requirements; and (11-1-13)T
- e.** Continuing education and professional development requirements. (11-1-13)T

041. LEVELS OF PSYCHOSEXUAL EVALUATOR CERTIFICATION.

The Board issues certificates within three (3) levels reflective of a person's training and experience: (11-1-13)T

01. Senior/Approved Psychosexual Evaluator. (11-1-13)T

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. (11-1-13)T

b. Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of 1500 hours which were accumulate 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 (11-1-13)T

c. Has conducted a minimum of nine (9) psychosexual evaluations within the three (3) years preceding an initial application for certification at this level. (11-1-13)T

02. Associate/Supervised Psychosexual Evaluator. (11-1-13)T

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. (11-1-13)T

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 500 hours which were accumulate 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; (11-1-13)T

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 (11-1-13)T

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. (11-1-13)T

03. Provisional/Supervised Psychosexual Evaluator. (11-1-13)T

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; (11-1-13)T

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; (11-1-13)T

c. May assist with the conduct of psychosexual evaluations only under the direct 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. (11-1-13)T

042. -- 079. (RESERVED)

080. SEXUAL OFFENDER TREATMENT PROVIDER QUALIFICATIONS.

Each person who provides treatment to sexual offenders as ordered or required by the court, Idaho Department of Correction, Idaho Commission for Pardons and Parole, or the Idaho Department of Juvenile Corrections, in accordance with Section 18-8314, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. (11-1-13)T

01. Certification Requirements. Minimum requirements for certification as a sexual offender treatment provider include criteria, requirements, and expectations in the following categories: (11-1-13)T

a. Formal educational requirements; (11-1-13)T

b. Professional licensure requirements; (11-1-13)T

c. Clinical experience requirements; (11-1-13)T

d. Specialized training requirements; and (11-1-13)T

e. Continuing education and professional development requirements. (11-1-13)T

081. LEVELS OF SEXUAL OFFENDER TREATMENT PROVIDER CERTIFICATION.

The Board issues certificates within three (3) levels reflective of a person's training and experience: (11-1-13)T

01. Senior/Approved Sexual Offender Treatment Provider. (11-1-13)T

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 (11-1-13)T

b. Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of 1500 hours which were accumulate 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. (11-1-13)T

02. Associate/Supervised Sexual Offender Treatment Provider. (11-1-13)T

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. (11-1-13)T

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 500 hours which were accumulate 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 (11-1-13)T

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. (11-1-13)T

03. Provisional/Supervised Sexual Offender Treatment Provider. (11-1-13)T

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 (11-1-13)T

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. (11-1-13)T

c. Shall only provide treatment services under the direct 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. (11-1-13)T

082. -- 099. (RESERVED)

100. SPECIALIZED TRAINING FOR PSYCHOSEXUAL EVALUATORS AND SEXUAL OFFENDER TREATMENT PROVIDERS.

For initial certification as a psychosexual evaluator or sexual offender treatment provider, an applicant must have participated in specialized training in the field of sexual abuse, as set forth in the established standards issued by the Board. Sources for such training may be formal conferences, symposia, seminars and workshops in areas such as: (11-1-13)T

01. Sexually Abusive Behavior. Contemporary research regarding the etiology of sexually abusive behavior; (11-1-13)T

02. Offending Behavior. Research-identified risk factors for the development and continuation of sexually abusive/offending behavior; (11-1-13)T

03. Assessment, Treatment, and Management of Adult Sex Offenders. Contemporary research and practice in the areas of assessment, treatment, and management of adult sex offenders; (11-1-13)T

04. Specific Risk Assessment Tools. Research-supported, sex offender-specific risk assessment tools; and (11-1-13)T

05. Deviant Sexual Arousal and/or Interests. Physiological assessment of deviant sexual arousal and/or interests. (11-1-13)T

101. CONTINUING EDUCATION FOR PSYCHOSEXUAL EVALUATORS AND SEXUAL OFFENDER TREATMENT PROVIDERS.

To maintain certification as a psychosexual evaluator or sexual offender treatment provider, a certificate holder must receive continuing education in the field of sexual abuse. (11-1-13)T

01. Senior/Approved and Associate/Supervised Certification Levels. A psychosexual evaluator or sexual offender treatment provider who is certified at a senior/approved or an associate/supervised level must receive a minimum of forty (40) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training 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. (11-1-13)T

02. Provisional/Supervised Certification Level. A provisional/supervised psychosexual evaluator or sexual offender treatment provider must receive a minimum of twenty (20) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training annually as set forth in the established standards issued by the Board. (11-1-13)T

102. -- 149. (RESERVED)

150. REQUEST FOR CONDITIONAL WAIVER.

The Board may consider an applicant's request for conditional waiver for deficiencies in experience 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. (11-1-13)T

01. Duration. A conditional waiver is limited to a period of three (3) years. Conditional waivers may not be extended or renewed after the third year. (11-1-13)T

151. CRITERIA EXCEPTION FOR PSYCHOSEXUAL EVALUATORS.

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. (11-1-13)T

152. RECIPROCITY.

The Board may consider reciprocity for any applicant who has been licensed or certified to conduct psychosexual evaluations or sexual offender treatment in another state or jurisdiction as set forth in the established standards issued by the Board. (11-1-13)T

153. EXCLUSION.

Each mental health employee of the Idaho Department of Correction or Idaho Department of Juvenile Corrections who conducts psychosexual evaluations or provides sexual offender treatment is exempt from the certification process. This exemption shall only apply while the employee is acting within the course and scope of his employment with the applicable agency. (11-1-13)T

154. REQUEST FOR CHANGE IN CERTIFICATION LEVEL.

01. Request to Advance in Level of Certification. A certificate holder may apply at any time during an effective certification to advance to the next higher level of certification provided that he meets the established qualifications and requirements as set forth in the established standards issued by the Board. (11-1-13)T

02. Request to Change to a Less Independent Level of Certification. A certificate holder may apply at any time during an effective certification for a reduction in his level of certification in the event that he no longer meets the established qualifications and requirements for his current level of certification as set forth in the established standards issued by the Board. (11-1-13)T

155. APPLICATION FOR CHANGE IN CERTIFICATION LEVEL.

Application for change in certification level shall be on a form provided by the Board and shall be submitted with the

required supporting documentation and applicable renewal application processing fee: (11-1-13)T

01. Advance to Senior/Approved Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of fifty dollars (\$50) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (11-1-13)T

02. Advance to Associate/Supervised Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of thirty dollars (\$30) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (11-1-13)T

03. Change to a Less Independent Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of fifty dollars (\$50) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (11-1-13)T

156. -- 199. (RESERVED)

200. POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER QUALIFICATIONS.

Each person who conducts post conviction sexual offender polygraphs as ordered or required by the court, Idaho Department of Correction, or Idaho Commission for Pardons and Parole, in accordance with Section 18-8314, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. (11-1-13)T

01. Certification Requirements. Minimum requirements for certification as a sexual offender treatment provider include criteria and requirements in the following categories: (11-1-13)T

- a.** Educational requirements; (11-1-13)T
- b.** Experience requirements; (11-1-13)T
- c.** Specialized training requirements; and (11-1-13)T
- d.** Continuing education and professional development requirements. (11-1-13)T

201. -- 229. (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. (11-1-13)T

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) 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. (11-1-13)T

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: (11-1-13)T

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; (11-1-13)T

b. Adhere to the ATSA treatment philosophy, the ATSA Professional Code of Ethics, and the ATSA Practice Standards and Guidelines, as referenced in Section 004 of these rules; (11-1-13)T

c. Be knowledgeable of statutes and scientific data relevant to specialized sexual offender evaluation and sexual offender treatment; (11-1-13)T

d. Be familiar with the statutory requirements for assessments and reports for the courts, pursuant to Section 18-8316, Idaho Code; (11-1-13)T

e. Be committed to community protection and safety; (11-1-13)T

f. Provide services in a manner that ensures humane and ethical treatment of clients; (11-1-13)T

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; (11-1-13)T

h. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; and (11-1-13)T

i. Have no sexual relationships with any client. (11-1-13)T

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: (11-1-13)T

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; (11-1-13)T

b. Adhere to the standards and guidelines specific to post conviction sexual offender testing as promulgated by the American Polygraph Association; (11-1-13)T

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 or the American Association of Police Polygraphists, as referenced in Section 004 of these rules; (11-1-13)T

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, as referenced in Section 004 of these rules; (11-1-13)T

e. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; and (11-1-13)T

f. Have no sexual relationships with any client. (11-1-13)T

301. -- 329. (RESERVED)

330. INITIAL CERTIFICATION APPLICATION.

An applicant seeking certification by the Board must submit a completed application on forms provided by the Board for the applicant's area of practice accompanied by documentation as outlined in the established standards issued by the Board and an initial certification application fee made payable to the Board. (11-1-13)T

331. EXPIRATION AND RENEWAL OF CERTIFICATION.

No certification shall be renewed, except as follows: (11-1-13)T

01. Renewal. At least thirty (30) days prior to the expiration of a certification, a certificate holder shall apply for renewal of the certification on forms provided by the Board for the applicant's area of practice accompanied by documentation as outlined in the established standards issued by the Board and a renewal certification application fee made payable to the Board. (11-1-13)T

02. Removal from the Roster. A certificate holder who has not renewed his certification shall be removed from the central roster thirty (30) days after his certification has expired. (11-1-13)T

03. Renewal After Certification Expiration. A certificate holder whose certification has expired may reapply at any time for certification as follows: (11-1-13)T

a. A certificate holder whose certification has been expired for less than three hundred sixty-five (365) days may reapply following the certification renewal process as referenced in Subsection 331.01 of these rules. (11-1-13)T

b. A certificate holder whose certification has been expired for three hundred sixty-five (365) days or longer may reapply for certification following the initial certification process as referenced in Section 330 of these rules. (11-1-13)T

332. FEES.

The following non-refundable application processing fees are established by the Board: (11-1-13)T

01. Initial Certification. Application processing fees for initial certification shall be: (11-1-13)T

a. Senior/Approved Psychosexual Evaluator or Treatment Provider – Seventy-five dollars (\$75). (11-1-13)T

b. Associate/Supervised Psychosexual Evaluator or Treatment Provider – Seventy-five dollars (\$75). (11-1-13)T

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Fifty dollars (\$50). (11-1-13)T

d. Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). (11-1-13)T

02. Renewal Certification. Application processing fees for renewal certification shall be: (11-1-13)T

a. Senior/Approved Psychosexual Evaluator or Treatment Provider – Fifty dollars (\$50). (11-1-13)T

b. Associate/Supervised Psychosexual Evaluator or Treatment Provider – Fifty dollars (\$50). (11-1-13)T

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Thirty dollars (\$30). (11-1-13)T

d. Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). (11-1-13)T

03. Change in Certification Level. Application processing fees for a change in certification level shall be as referenced in Section 155 of these rules. (11-1-13)T

333. CERTIFICATION PERIOD.

01. 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: (11-1-13)T

a. 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. (11-1-13)T

b. 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. (11-1-13)T

c. 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. (11-1-13)T

d. 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. (11-1-13)T

334. APPLICABILITY AND NOTIFICATION OF CHANGES.

Certification shall only apply to the person named therein and is not transferrable. The Board must be notified in writing within thirty (30) days of any change in the certificate holder's name, business address or phone number. (11-1-13)T

335. REQUEST FOR PLACEMENT ON INACTIVE STATUS.

Any certificate holder may request placement on inactive status by submitting a written request to the SOMB specifying the reasons for the request and indicating the inactive status effective date. A certificate holder who is placed on inactive status shall be removed from the central roster of certified evaluators, treatment providers and post conviction sexual offender polygraph examiners. A person who has been placed on inactive status may reapply for certification in accordance with the established standards issued by the Board. (11-1-13)T

336. -- 349. (RESERVED)

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

01. Identification. The Board shall publish a central roster of psychosexual evaluators, sexual offender treatment providers and post conviction sexual offender polygraph providers pursuant to Sections 18-8312 through 18-8316, Idaho Code. The central roster shall indicate: (11-1-13)T

- a.** The certificate holder's name; (11-1-13)T
- b.** The certificate holder's business address and telephone number; (11-1-13)T
- c.** Whether the certificate holder is certified or approved by conditional waiver; (11-1-13)T
- d.** The category and applicable level of certification; (11-1-13)T
- e.** The expiration date of the certification or conditional waiver; and (11-1-13)T

f. Current formal disciplinary action imposed on a certificate holder by the Board. (11-1-13)T

02. Availability. A copy of the central roster may be obtained from the Board, and shall be posted on the Board's website. (11-1-13)T

351. -- 379. (RESERVED)

380. DENIAL AND GROUNDS FOR DISCIPLINE.

01. Cause. The Board may deny, suspend, revoke, restrict or otherwise monitor certification of an applicant or certificate holder for the following reasons: (11-1-13)T

a. Failure to meet or maintain the minimum eligibility criteria and qualifications for certification; (11-1-13)T

b. Falsification of any information or documentation, or concealing a material fact in the application for certification, or during any investigation or quality assurance review; (11-1-13)T

c. Misrepresentation of current level or designation of certification, or practicing outside the scope or current level or designation of certification; (11-1-13)T

d. Failure to comply with Section 18-8316, Idaho Code, any portion of this chapter, or the standards adopted by the Board; (11-1-13)T

e. Failure to demonstrate an understanding of counter-transference issues and a broad knowledge of sexuality in the general populations, and basic theories and typologies of sexual offenders and sexual assault victims; (11-1-13)T

f. Failure or refusal to comply with the quality assurance review process or to cooperate during any investigation concerning certification, including failure or refusal to provide data, information or records as requested by the Board or designee; (11-1-13)T

g. Failure to comply with any informal disciplinary measures, remedial steps, corrective action or final order issued by the Board as a condition of continued certification, including practicing on a suspended or restricted certification; (11-1-13)T

h. Engaging in conduct that departs from the standards established by the Board; (11-1-13)T

i. Revocation, suspension, limitation, reprimand, voluntary surrender or any other disciplinary action or proceeding, including investigation against a license, certificate or privilege to practice by a professional licensing board; (11-1-13)T

j. Conviction of, or entry of a withheld judgment or plea of nolo contendere to conduct constituting a felony or crime of moral turpitude; or (11-1-13)T

k. Failure to notify the Board in writing of any circumstances that affect a certificate holder's eligibility for certification, including any disciplinary action taken by a respective professional licensing board or conviction of any felony or crime of moral turpitude. (11-1-13)T

02. Mirroring Orders. In the event a state licensing board with authority over a certificate holder's professional license takes action against the certificate holder's professional license in any fashion which suspends, restricts, limits or affects the certificate holder's ability to provide services pursuant to their SOMB certification, the SOMB shall be authorized to issue its order suspending, restricting, limiting or otherwise affecting the certificate holder's SOMB certification in the same fashion as the professional licensing board action as outlined in the established standards issued by the Board. (11-1-13)T

03. Emergency Suspension. Pursuant to Section 67-5247, Idaho Code, if the Board finds that public

health, safety or welfare requires immediate emergency action the Board may take such action necessary to prevent or avoid the immediate danger as outlined in the established standards issued by the Board. (11-1-13)T

381. REAPPLICATION FOLLOWING CERTIFICATION DENIAL OR DISCIPLINARY ACTION.

01. Denial. An applicant whose certification was denied may reapply when evidence is available confirming that he meets the required qualifications for the respective area of practice as referenced in Sections 040, 080 or 200 of these rules; (11-1-13)T

02. Suspension. A person whose certification has been suspended may apply for reinstatement after the suspension period has expired and following completion of any remedial steps or corrective action ordered by the Board, as outlined in the established standards issued by the Board; (11-1-13)T

03. Restriction. A person whose certification has been restricted or otherwise monitored may request removal of the restrictions after the restriction period has expired. If no period of restriction was established, the request may be made following completion of any remedial steps or corrective action ordered by the Board, as outlined in the established standards issued by the Board; (11-1-13)T

04. Revocation. A person whose certification has been revoked may request reinstatement after the revocation period has expired, as outlined in the established standards issued by the Board. The Board shall have discretion to impose any monitoring conditions upon a certificate holder whose certification has been reinstated following revocation; (11-1-13)T

05. Withheld Discipline and Probation. A certificate holder whose formal discipline was withheld and placed on probationary status may request reinstatement after the probationary period has expired and any conditions imposed have been met, as outlined in the established standards issued by the Board. (11-1-13)T

382. LEVELS OF DISCIPLINE.

The levels of disciplinary action utilized by the Board against a certificate holder may generally include formal discipline, informal discipline or withholding formal discipline and probation. (11-1-13)T

383. FORMAL DISCIPLINE.

Formal disciplinary action consists of suspension, revocation or other restrictions. Formal disciplinary actions restrict or otherwise impede a certificate holder's ability to perform sexual offender services consistent with their certification level. (11-1-13)T

384. INFORMAL DISCIPLINE.

Informal disciplinary action consists of monitoring a certificate holder or issuing letters of informal reprimand or counseling. Informal disciplinary actions do not restrict or otherwise impede a certificate holder's ability to perform sexual offender services consistent with their certification level. (11-1-13)T

385. WITHHOLDING FORMAL DISCIPLINE AND PROBATION.

The Board may withhold the imposition of formal discipline and place the certificate holder on a period of probation not to exceed two (2) years. The Board may impose any conditions of probation as deemed necessary to ensure compliance with the established standards issued by the Board. Such probationary conditions may include attendance at specialized training, review of the certificate holder's work product by the Board or its designee, or supervised practice by a senior level certificate holder. Failure to comply with a probationary condition imposed by the Board may result in the imposition of any suspended disciplinary action. (11-1-13)T

386. COMPLAINTS.

Any individual may file against a certificate holder by submitting a written complaint to the Board, as outlined in the established standards issued by the Board. (11-1-13)T

01. Initial Review. The Board's designee shall conduct an initial review of any complaint or information received to determine if the Board has jurisdiction. (11-1-13)T

02. Investigation. The Board's designee shall conduct an investigation upon a determination that the

Board has jurisdiction and a possible violation may exist. Investigative findings shall be presented to the Board as outlined in the established standards issued by the Board. (11-1-13)T

387. DISCIPLINARY PROCESS.

The disciplinary process may be initiated as a result of a complaint received by the Board or a quality assurance review, or be based upon a review of information submitted to the Board during the certification process, monitoring process or while under formal probation. The Board must provide the applicant or certificate holder with notice of intent to deny, suspend, revoke, restrict or otherwise monitor certification, and the right to appeal. (11-1-13)T

01. Notification. The Board shall notify the applicant or certificate holder of the Board's intended action in writing using certified mail. (11-1-13)T

02. Notice Contents. The notice shall: (11-1-13)T

a. State the basis for the intended action; (11-1-13)T

b. May suggest means by which the matter might be remedied; and (11-1-13)T

c. Provide the applicant or certificate holder notice of the right to a hearing in the matter. (11-1-13)T

388. RESPONSE TO NOTICE OF INTENDED ACTION.

The applicant or certificate holder shall have not more than thirty (30) days from the date on which the Board's notice of intended action is served upon him to request a hearing with the Board. The written request shall include documentation supporting the applicant or certificate holder's argument refuting the Board's intended action and a requested remedy. (11-1-13)T

01. Failure to Respond. The board shall issue a final order imposing formal disciplinary action if the applicant or certificate holder fails to respond to the Board's notice of intended action or request a hearing within the designated time frame. (11-1-13)T

02. Petition for Reconsideration. A petition for reconsideration may be filed by an applicant or certificate holder who failed to respond or request a hearing within the required time frame. (11-1-13)T

389. HEARING.

Hearings in contested cases shall be conducted by a hearing officer appointed by the Board as outlined in the established standards issued by the Board. (11-1-13)T

01. Recommended Order. All decisions by the hearing officer are considered to be a recommended order and will be reviewed by the Board prior to the issuance of a final order or remanded back to the hearing officer for further consideration. (11-1-13)T

02. Response to Recommended Order. Within twenty-one (21) days of the service of the recommended order, any party may submit in writing to the Board to support or take exceptions to any part of the recommended order and file briefs in support of the party's position on any issue in the proceeding. The request must identify all legal and factual bases of disagreement with the recommended order. A review by the Board will be conducted as outlined in the established standards issued by the Board. (11-1-13)T

03. Resolution without a Hearing. Any contested case may be resolved without a hearing on the merits of the notice of intended action by stipulation, settlement, motion to dismiss, summary judgment, default, withdrawal, or for lack of jurisdiction. The hearing officer must dismiss a request for hearing that is not filed within the time limits set forth in these rules. (11-1-13)T

390. FINAL ORDER.

The Board will issue a final order or notice of remand within sixty (60) days of the service of the recommended order, unless a review of the recommended order was filed. (11-1-13)T

391. APPEAL TO DISTRICT COURT

Any person aggrieved by a final order issued by the Board in a contested case may appeal to district court pursuant to Section 67-5270, Idaho Code, and IDAPA 04.11.01., "Idaho Rules of Administrative Procedure of the Attorney General, Sections 790 through 799. (11-1-13)T

392. -- 399. (RESERVED)

400. QUALITY ASSURANCE.

Policies for technical review and quality assurance of psychosexual evaluation reports and sexual offender treatment services are outlined in the established standards issued by the Board. The Board shall develop a quality assurance process for review of post conviction sexual offender polygraph examinations. (11-1-13)T

401. -- 449. (RESERVED)

450. PSYCHOSEXUAL EVALUATIONS.

Pre-sentence psychosexual evaluations shall be conducted pursuant to the established standards issued by the Board and written utilizing the "Required Format for Psychosexual Evaluations" as referenced in Section 004 of these rules. (11-1-13)T

01. Testing. The evaluator shall utilize testing instrumentation and assessment measures as outlined in the established standards issued by the Board. (11-1-13)T

02. Client Participation. The client being evaluated may refuse or decline to participate in any testing, assessment measure, or physiological measure used for the pre-sentence psychosexual evaluation. The evaluator shall document the client's refusal or declination in the psychosexual evaluation report. (11-1-13)T

451. -- 479. (RESERVED)

480. POLYGRAPH EXAMINATIONS.

Post conviction sexual offender polygraph examinations performed pursuant to an order or requirement by the court or requested by the Idaho Department of Correction or Idaho Commission for Pardons and Parole shall be conducted by a person certified by the Board to conduct such examinations and shall follow the established standards issued by the Board. (11-1-13)T

481. -- 499. (RESERVED)

500. SEXUAL OFFENDER TREATMENT.

Specialized sexual offender treatment conducted pursuant to an order or requirement by the court, the Idaho Department of Correction, the Idaho Commission for Pardons and Parole or the Idaho Department of Juvenile Corrections shall be conducted by a person certified by the Board to conduct such treatment and shall follow the established standards issued by the Board. (11-1-13)T

501. -- 999. (RESERVED)