

DEPARTMENT OF SAFETY AND HOMELAND SECURITY
DELAWARE SEX OFFENDER MANAGEMENT BOARD
Statutory Authority: 11 Delaware Code, Section 4120A(c)(8) (11 Del.C. §4120A(c)(8))
1 DE Admin. Code 1100

PROPOSED

PUBLIC NOTICE

1100 Delaware Sex Offender Management Board

The Sex Offender Management Board (SOMB), pursuant to 11 Del. C. §4120A (c)(8), proposes to revise its regulations. The proposed amendments, which were voted on in a General Meeting by the SOMB on March 29, 2021, seek to add an associate level service provider, add provisions for declared states of emergencies, as well as update and clarify information regarding qualifications for Sex Offense Service Providers and the credentialing process.

The SOMB will allow for the submission of written comments, suggestions, or other materials regarding the proposed rules to the Criminal Justice Council Attn: Bridget V. Poulle, Carvel State Office Building, 10th Floor, 820 N French Street, Wilmington, Delaware 19801-3590 or e-mail BridgetV.Poulle@state.de.us. Any written submission in response to this notice and the relevant proposed regulations must be received by the Department of Safety and Homeland Security no later than 4:30 p.m. (EST) on June 3, 2021. A copy of this regulation may be viewed online at the Registrar of Regulation's website, http://regulations.delaware.gov/services/current_issue.shtml.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, under the statutory authority and for the reasons sent forth above, the Sex Offender Management Board does hereby ORDER that the regulations be, and that they hereby are, proposed to be enacted as set forth below.

Marvin Mailey, Chairman SOMB

1100 Delaware Sex Offender Management Board

1.0 Intent and Purpose

The responsibility of the Sex Offender Management Board is to develop, standardize, and maintain current standards in the field with regard to the evaluation, identification, classification, treatment, and continued monitoring of sex offenders at each stage of the criminal justice system so that such offenders will receive appropriate clinical services; which is both in their best interests as well as the interests of community safety. The following regulations outline the process by which Sex Offense Services Providers can be credentialed and their required qualifications.

22 DE Reg. 617 (01/01/19)

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise.

"Assessment" means the collection of facts to draw conclusions which may suggest the proper course of action. Sometimes assessment and evaluation may be used interchangeably but assessment is on-going and includes an analysis of all data including a sex-offense specific evaluation.

"Associate Sex Offense Service Provider" or "ASOSP" means a sex-offense service provider who can perform sex offense-specific treatment, evaluations, or both, in the State of Delaware while under the supervision of a Credentialed Sex Offense Service provider.

"ATSA Code of Ethics" means the Association for Treatment of Sexual Abusers has published a code of ethics for those individuals involved in the evaluation and treatment of sexual offenders. Delaware Sex Offender Management Board approved providers must adhere to these ethics.

"Case Management" means coordination and implementation of the activities directed towards supervising, treating, and managing the behavior of individual sex offenders.

"Clinical Experience" means activities directly related to providing ~~evaluation and/or treatment~~ evaluation, treatment, or both, to individual sex offenders. For example; face to face therapy, report writing, administration, scoring and interpretation of tests, participation on supervision teams, and clinical supervision of therapists treating sex offenders.

"Community Supervision Team" means those individuals involved in the case management of a particular sex offender. The supervision team determines the best course of action to reduce risk while the sex offender is supervised in the community.

"Credentialed Sex Offense Service Provider" or "CSOSP" means a sex-offense service provider who can perform sex offense-specific treatment, evaluations, or both, in the State of Delaware.

"Denial" means in psychological terms, ~~denial~~ means a defense mechanism used to protect the ego from anxiety-producing information.

"Evaluation" means the systematic collection, analysis, and documentation of psychological, behavioral and social information. Sex-offense specific evaluation includes the above information as well as information related to sexual history, arousal patterns, sexual deviance, dysfunction, sexual attitudes and cognition, risk of sexual re-offense, and risk of failure in sex offense specific treatment and supervision.

"Face-to-face" means communication that is in-person or via video. Each participant must be visible throughout the video communication.

"Risk Assessment" means the process to determine risk for sexual re-offense through the best current practices in the field.

"Sex Offender" means as used in 11 Del.C. §4120A(b)(2) and §4121(a)(4).

"Sex Offense Service Provider" means a person who conducts sex offense-specific treatment or evaluations with individuals who have engaged in sexually problematic behavior according the standards and guidelines of this document.

"Sex Offense-Specific Treatment" means a long term comprehensive set of planned therapeutic experiences and interventions to change sexually abusive thoughts and behaviors. Such treatment specifically addresses the occurrence and dynamics of sexually deviant behavior and utilizes specific strategies to promote change. Sex offense-specific programming focuses on the concrete details of the actual sexual behavior, fantasies, arousal, planning, denial, and rationalizations.

"Sexual Paraphilias/Sexual Deviance" means a subclass of sexual disorders in which the essential features are "recurrent intense sexually arousing fantasies, sexual urges, or behaviors generally involving (1) nonhuman objects, (2) suffering and humiliation of oneself or one's partner, or (3) children or other non-consenting persons that occur over a period of at least six months and cause clinically significant distress in one or more important areas of functioning.

"SOMB" means the Delaware Sex Offender Management Board.

22 DE Reg. 617 (01/01/19)

3.0 Qualifications of Credentialed Sex Offense Service Providers (CSOSP)

3.1 The following sections outline qualifications for Credentialed Sex Offense Service Providers.

3.2 The Credentialed Sex Offense Service Provider may treat sex offenders without supervision. To qualify to be credentialed as a Sex Offense Service Provider with the SOMB, an individual must meet all the following criteria:

3.2.1 The individual shall have a minimum of a ~~Masters Degree~~ master's degree in a behavioral science related field.

3.2.2 The individual shall have attained the underlying credential of licensure and be in good standing as a physician, psychologist, clinical social worker, professional counselor, marriage and family therapist, or clinical psychiatric nurse specialist; and

3.2.3 The individual shall have completed within the past five (5) years a minimum of one thousand (1000) hours of clinical experience specifically in the areas of either evaluation or treatment, or both, of sex offenders, at least three hundred fifty (350) of which shall have been face-to-face clinical experience with sex offenders (see definition of clinical experience). Such clinical experience may have been obtained while seeking licensure or after obtaining licensure.

3.2.4 The individual shall have had at least fifty (50) hours of documented training specifically related to either evaluation or treatment methods, or both, ~~described in subsections 2.10, 3.4, and 3.5 of the Adult Standards~~ within the last five (5) years. Training shall be specific to the population ~~you serve~~ the individual serves.

3.2.4.1 Sex offense specific training:

3.2.4.1.1 Prevalence of sexual offending by adults/juveniles victimization ~~rates~~ rates;

3.2.4.1.2 Typologies of adult sex ~~offenders~~ offenders;

3.2.4.1.3 Sex offender evaluation and ~~assessment~~ assessment;

3.2.4.1.4 Sex offender treatment planning and assessing treatment ~~outcomes~~ outcomes;

- 3.2.4.1.5 Community Supervision ~~techniques~~ techniques;
- 3.2.4.1.6 Clinical supervision ~~training~~ training; and
- 3.2.4.1.7 Treatment modalities, specific recommended applications, justification for use, ~~contra-indicators~~ contra-indicators.
- 3.2.4.1.8 Sex Offender Treatment Techniques including:
 - 3.2.4.1.8.1 Evaluating and reducing ~~denial~~ denial;
 - 3.2.4.1.8.2 Behavioral treatment ~~techniques~~ techniques;
 - 3.2.4.1.8.3 Cognitive behavioral ~~techniques~~ techniques;
 - 3.2.4.1.8.4 Relapse ~~prevention~~ prevention;
 - 3.2.4.1.8.5 Offense ~~cycle~~ cycle;
 - 3.2.4.1.8.6 Empathy ~~training~~ training;
 - 3.2.4.1.8.7 Confrontation ~~techniques~~ techniques; and
 - 3.2.4.1.8.8 Safety and containment ~~planning~~ planning.
- 3.2.4.1.9 Offender/offense characteristics ~~Crossover~~ crossover.
- 3.2.4.1.10 Sex offender risk assessment adult ~~and/or juvenile~~ or juvenile.
- 3.2.4.1.11 Objective measures including:
 - 3.2.4.1.11.1 Polygraph (adult ~~only~~) only;
 - 3.2.4.1.11.2 Plethysmograph (adult ~~only~~) only; and
 - 3.2.4.1.11.3 Abel Assessment (adult ~~only~~) only.
- 3.2.4.1.12 Special sex offender populations including:
 - 3.2.4.1.12.1 Sadists (adult ~~only~~) only;
 - 3.2.4.1.12.2 Psychopaths (adult ~~only~~) only;
 - 3.2.4.1.12.3 Developmentally ~~disabled~~ disabled;
 - 3.2.4.1.12.4 ~~Compulsive~~ Compulsive;
 - 3.2.4.1.12.5 ~~Juvenile~~ Juvenile; and
 - 3.2.4.1.12.6 ~~Female~~ Female.
- 3.2.4.1.13 Family ~~Unification/visitation~~ Unification/visitation.
- 3.2.4.1.14 Pharmacotherapy with sex ~~offenders~~ offenders.
- 3.2.4.1.15 Impact of sex ~~offenses~~ offenses.
- 3.2.4.1.16 Assessing treatment ~~progress~~ progress.
- 3.2.4.1.17 Support system, family stability, parenting ~~skills~~ skills.
- 3.2.4.1.18 Sex offender attachment ~~style~~ style.
- 3.2.4.1.19 Knowledge of laws, policies and ethical concerns relating to confidentiality, mandatory reporting, risk management and offender participation in treatment.
- 3.2.4.1.20 ~~Ethics~~ Ethics;
- 3.2.4.1.21 Philosophy and principles of the SOMB; ~~and~~
- 3.2.4.1.22 Continuing research in the field of adult ~~and/or or~~ or juvenile sexual ~~offending~~ offending.
- 3.2.4.2 General topic training areas (at least a total of 30 hours required from these areas, to include 15 hours of victimology):
 - 3.2.4.2.1 Victim issues including impact and ~~treatment~~ treatment;
 - 3.2.4.2.2 Knowledge of criminal justice ~~and/or or~~ or court system, legal parameters and the relationship between the provider and the courts, including expectations related to testifying in ~~court~~ court;
 - 3.2.4.2.3 Secondary and Vicarious ~~Trauma~~ Trauma;
 - 3.2.4.2.4 Anger ~~management~~ management;
 - 3.2.4.2.5 Healthy sexuality and sex ~~education~~ education;
 - 3.2.4.2.6 Learning ~~Theory~~ Theory;
 - 3.2.4.2.7 Multicultural ~~sensitivity~~ sensitivity;
 - 3.2.4.2.8 Understanding transference and ~~counter-transference~~ counter-transference;
 - 3.2.4.2.9 Family dynamics and dysfunction including domestic ~~violence~~ violence;
 - 3.2.4.2.10 Co-morbid conditions, differential ~~diagnosis~~ diagnosis;
 - 3.2.4.2.11 ~~Investigations~~ Investigations; and
 - 3.2.4.2.12 Addictions and substance ~~abuse~~ abuse.

- 3.2.5 To receive credit for training not identified on this list, it is incumbent on the trainee to write a justification demonstrating relevance to sex offender ~~assessment/treatment/~~ assessment, treatment, and management as described in these Standards.
- 3.2.6 In concert with the generally accepted standards of practice of the individual's mental health profession, the individual shall adhere to the Professional Code of Ethics published by the Association for the Treatment of Sexual Abusers (ATSA). It is the responsibility of each provider/evaluator to comply with this Professional Code of Ethics. The provider/evaluator shall demonstrate competency according to the individual's respective professional standards and conduct all treatment in a manner that is consistent with the reasonably accepted standard of practice in the sex offense specific treatment community.
- 3.2.7 Provide satisfactory references as requested by the SOMB. The SOMB may also solicit such additional references as necessary to determine compliance with ~~the Standards~~ generally accepted standards of practice of the individual's mental health profession.
- 3.2.8 The individual shall never have been convicted of, or plead no contest to, or received a deferred judgment for any offense involving criminal sexual or violent behavior, or a felony that would bring into question the competence or integrity of the individual to provide sex offense specific treatment or evaluations.
- 3.2.9 At their own expense, the individual will complete an entire criminal history check including Federal information pursuant to the Federal Bureau of Investigation appropriation of Title 11 of Public Law 92-544 (28 U.S.C. 534). The individual will submit to fingerprinting as part of this process.
- 3.2.10 The individual must provide a copy of Professional Liability Insurance (Certificate of Insurance).
- 3.2.11 The individual must provide a copy of National Practitioner Databank Report completed within the past 90 days.
- ~~3.2.10~~ 3.2.12 Report any practice that is in significant conflict with ~~the standards~~ generally accepted standards of practice of the individual's mental health profession.
- ~~3.2.14~~ 3.2.13 Renewal of credential for Sex Offense Service Providers. Providers must apply for continued placement on the list every two (2) years by the date provided by the Board. Requirements are as follows:
- 3.2.13.1 ~~3.2.13.1~~ Credentialed providers must demonstrate continued compliance with ~~the standards.~~ generally accepted standards of practice of the individual's mental health profession;
- 3.2.13.2 ~~3.2.13.2~~ The individual shall accumulate a minimum of three hundred (300) hours of clinical experience every two years, one hundred fifty (150) hours of which shall be face-to-face clinical services with adults or juveniles who have engaged in sexually inappropriate/illegal ~~behavior.~~ behavior;
- 3.2.13.3 ~~3.2.13.3~~ Credentialed Sex Offense Service Providers shall complete a minimum of twenty (20) hours of continuing education every two (2) years in order to maintain proficiency in the field of sex offender treatment and to remain current on any developments in the assessment, treatment, and monitoring of sex ~~offenders.~~ offenders;
- 3.2.13.3.1 ~~3.2.13.3.1~~ To receive credit for training not identified on this list, it is incumbent on the trainee to write a justification demonstrating relevance to sex offender ~~assessment/treatment/~~ management as described in these standards assessment, treatment, and management.
- 3.2.13.4 ~~3.2.13.4~~ Provide satisfactory references as requested by the SOMB. The SOMB may also solicit such additional references as necessary to determine compliance with ~~the Standards~~ generally accepted standards of practice of the individual's mental health profession. The references may include other members of the community supervision ~~team.~~ team;
- 3.2.13.5 ~~3.2.13.5~~ The individual shall never have been convicted of, plead no contest to, or received a deferred judgment for any offense involving criminal sexual or violent behavior, or a felony that would bring into question the competence or integrity of the individual to provide sex offense specific treatment or ~~evaluation.~~ evaluation;
- 3.2.13.6 ~~3.2.13.6~~ At their own expense, the individual will complete an entire criminal history check including Federal information pursuant to the Federal Bureau of Investigation appropriation of Title 11 of Public Law 92-544 (28 U.S.C. 534). The individual will submit to fingerprinting as part of this process. The criminal history check will occur within 90 days of submitting the application to the ~~SOMB.~~ SOMB;
- 3.2.13.7 The individual must provide a copy of current and valid Professional Liability Insurance (Certificate of Insurance);
- 3.2.13.8 The individual must provide a copy of National Practitioner Databank Report completed within the past 90 days; and
- 3.2.13.9 ~~3.2.13.9~~ Report any practice that is in significant conflict with ~~the Standards~~ generally accepted standards of practice of the individual's mental health profession.

3.2.14 Supervision of an Associate Sex Offense Service Provider (ASOSP)

- 3.2.14.1 Use only SOMB approved supervision forms. Approved forms are located on the SOMB website.
- 3.2.14.2 The CSOSP shall provide a description of the ASOSP's sex-offense service provider related clinical work. Both the CSOSP Supervisor and the ASOSP applicant must sign this description. Refer to the Application for Initial or New Supervisor for Associate Sex Offense Service Provider (ASOSP) for detailed requirements. Submit the signed description with the applicants SOMB application.
- 3.2.14.3 The CSOSP must complete an out-of-state supervision form before any non-Delaware supervision hours can be considered. Submit the signed form with the applicants SOMB application.
- 3.2.14.4 The Credentialed Sex Offense Service Provider (CSOSP) shall not supervise more than five (5) ASOSPs.
- 3.2.14.5 The CSOSP is required to disclose to all ASOSP clients that they are being treated by an ASOSP. Documentation of this disclosure must be maintained and available for SOMB review.
- 3.2.14.6 In addition to the regulations that govern the individual supervisor's mental health profession, the CSOSP shall supervise in accordance with SOMB regulations.
- 3.2.14.7 The CSOSP supervisor must have access to the ASOSP supervisee's workplace.
- 3.2.14.8 The CSOSP supervisor must be approved by SOMB and remain in good standing with the requirements of Section 3.0 of this regulation, Qualifications of a Credentialed Sex Offense Service Provider.
- 3.2.14.9 It is the CSOSP's responsibility to ensure that all advertisements and documentation that includes the ASOSP's name identifies them as a non-credentialed 'Associate' Sex Offense Service Provider.

3.2.15 Reporting requirements

- 3.2.15.1 The CSOSP shall submit quarterly reports to their parent agency, if applicable. The parent agency shall forward the quarterly reports to SOMB within 30 days of the end of each quarter. If no parent agency exists, the CSOSP shall submit quarterly reports directly to the SOMB. Reports can be submitted via email or mail to the SOMB.
- 3.2.15.2 Failing to submit quarterly reports may result in disciplinary action. The SOMB reserves the right to request additional details if necessary.
- 3.2.15.3 Quarterly Report Submission Schedule:
January 1 - March 31 - Due Date: April 30;
April 1 - June 30 - Due Date: July 31;
July 1 - September 30 - Due Date: October 31; and
October 1 - December 31 - Due Date: January 30.

3.2.16 Termination of Supervision

- 3.2.16.1 Use only SOMB approved forms. Approved forms are located on the SOMB website.
- 3.2.16.2 The CSOSP must complete a termination of supervision form upon completion of required training hours or upon transfer to another CSOSP.
- 3.2.16.3 The termination of supervision form must be submitted to the SOMB and the Parent Agency, if applicable.
- 3.2.16.4 The CSOSP will maintain supervision responsibilities until the termination of supervision form is received by SOMB.

3.3 Exceptions to qualifications of Sex Offense Service Providers

- 3.3.1 A Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior may apply to the SOMB and be credentialed as an entity as Sex Offender Service Providers.
 - 3.3.1.1 A Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior can qualify for their agency to be credentialed as Sex Offender Service Providers provided that each individual in their agency who works with the sex offender population meets all of the requirements listed in Section 3.0 of this ~~code~~ regulation with the exception of the following:
 - 3.3.1.1.1 Instead of each individual employee being required to have the requisite total number of hours of clinical experience both for the initial application and each renewal application as noted in subsections 3.2.3 and ~~3.2.11.2~~ 3.2.13.2 respectively, the Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior applying for the

credential must meet the total number of required clinical hours as an entity for the same time period as individual ~~applicants~~. applicants:

- 3.3.1.1.2 A Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior is applying to be a credentialed Sex Offender Service Provider does not have to demonstrate to the SOMB that their individual staff do not have a criminal history as specified in subsections 3.2.8 and ~~3.2.11.5~~ 3.2.13.5 of the initial and renewal applications. The Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior instead assumes the responsibility for monitoring their own staff for any potential criminal involvement per their own agency's and state's ~~standards~~. standards:
- 3.3.1.1.3 Similar to subsection 3.3.1.1.2, the Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior that is or is applying to be a credentialed Sex Offender Service Provider does not have to require their staff to participate in a criminal history check as stated in subsections 3.2.9 and ~~3.2.11.6~~ 3.2.13.6 of the initial and renewal applications. The Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior instead assumes the responsibility for criminal background checks in accordance with their agency's and the state's ~~policy~~. policy; and
- 3.3.1.1.4 The Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior that is or is applying to be a credentialed Sex Offender Service Provider does not have to require their staff to have personal professional liability insurance.
- 3.3.1.2 The Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior that is or is applying to be a credentialed Sex Offender Service Provider assumes the responsibility for maintaining a database indicating that their staff who work with sexual offenders meet the remainder of the criteria not listed in the exceptions above. Information in this database is subject to audit and review by the SOMB.
- 3.3.1.3 The Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior application's to be a credentialed Sex Offender Service Provider is their attestation that their staff has met and will maintain all of the necessary requirements.
- 3.3.1.4 Upon review of an application by a Delaware state agency that is court-ordered to evaluate youth who have engaged in sexually problematic behavior or a review of their database of information such as licensure or continuing education for their staff who work with sexual offenders, if a deviation from a standard is found, the agency is subject to the disciplinary process and sanctions in the same manner as is conducted for individual credentialed Sex Offender Service Providers.
- 3.3.1.5 No individual who is employed by or contracts with an agency who is a credentialed Sex Offender Service Provider may call themselves a credentialed Sex Offender Service Provider unless they independently meet criteria and have applied as a sole Sex Offender Service Provider. Furthermore, no individual who is employed by an agency who is a credentialed Sex Offender Service Provider may indicate in any fashion that they are a credentialed Sex Offender Service Provider outside of their work with the state agency for which they are employed unless they are independently credentialed.

17 DE Reg. 989 (04/01/14)

22 DE Reg. 617 (01/01/19)

4.0 Qualifications of the Associate Sex Offense Service Providers (ASOSP)

- 4.1 The following sections outline qualifications for Associate Sex Offense Service Providers.
- 4.2 An ASOSP may treat sex offenders while under the supervision of a Credentialed Sex Offense Service Provider (CSOSP). The ASOSP shall not provide services independent of a CSOSP.
 - 4.2.1 An ASOSP must submit the Initial Supervision form with the ASOSP application.
- 4.3 The ASOSP must provide a written plan for acquiring the CSOSP requirements in conformity with Section 3.0 of this regulation. The plan maximum is two (2) years and must be signed by the applicant's proposed supervisor. The CSOSP must be approved by SOMB.
 - 4.3.1 An ASOSP must notify the SOMB in writing within thirty (30) days if there is a change in supervision. All changes are subject to SOMB approval.
- 4.4 To qualify as an ASOSP with SOMB, an individual must meet all the following criteria:
 - 4.4.1 The individual shall have a minimum of a master's degree in a behavioral science related field;
 - 4.4.2 The individual shall be registered in the State of Delaware in a behavioral science related field;

- 4.4.3 The individual should have completed within the past five (5) years a minimum of twenty (20) hours of clinical experience specifically in the areas of either evaluation or treatment, or both, of sex offenders, at least ten (10) hours shall be participatory observation, face-to-face clinical experience, or both, with sex offenders (see definition of participatory observation and clinical experience);
- 4.4.4 The individual shall have at least twenty-five (25 hours) of documented training specifically related to either evaluation or treatment methods, or both within the last five (5) years. Training shall be specific to the population served.
 - 4.4.4.1 For acceptable trainings, refer to subsections 3.2.4.1 Sex offense specific training and 3.2.4.2 General topic training areas. General topic training hours for the ASOSP shall include at least a total of 15 hours required from these areas, to include 7 hours of victimology.
- 4.4.5 To receive credit for training not identified on this list, it is incumbent on the individual to write a justification demonstrating relevance to sex offender assessment, treatment, and management as described in subsections 3.2.4.1 and 3.2.4.2 of this regulation;
- 4.4.6 In concert with the generally accepted standards of practice of the individual's mental health profession, the individual shall adhere to the Professional Code of Ethics published by the Association for the Treatment of Sexual Abusers (ATSA). It is the responsibility of each ASOSP to comply with this Professional Code of Ethics. The ASOSP shall demonstrate competency according to the individual's respective professional standards and conduct all treatment in a manner that is consistent with the reasonably accepted standard of practice in the sex offense specific treatment community;
- 4.4.7 Provide satisfactory references as requested by the SOMB. The SOMB may also solicit such additional references as necessary to determine compliance with generally accepted standards of practice of the individual's mental health profession;
- 4.4.8 The individual shall never have been convicted of, or plead no contest to, or received a deferred judgment for any offense involving criminal sexual or violent behavior, or a felony that would bring into question the competence or integrity of the individual to provide sex offense specific treatment or evaluations;
- 4.4.9 At their own expense, the individual will complete an entire criminal history check including Federal information pursuant to the Federal Bureau of Investigation appropriation of Title 11 of Public Law 92-544 (28 U.S.C. 534). The individual will submit to fingerprinting as part of this process;
- 4.4.10 The individual must provide a copy of Professional Liability Insurance (Certificate of Insurance);
- 4.4.11 The individual must provide a copy of National Practitioner Databank Report completed within the past 90 days; and
- 4.4.12 Report any practice that is in significant conflict with generally accepted standards of practice of the individual's mental health profession.
 - 4.4.12.1 Supervision issues with the CSOSP should be reported directly to the SOMB.

4.5 Expiration of ASOSP

- 4.5.1 The ASOSP is valid for two (2) years. Upon expiration of the two (2) year period, the ASOSP must apply to become a CSOSP to maintain affiliation with SOMB.
- 4.5.2 If the individual has not met requisite experience and training requirements upon expiration of two (2) years, the individual may request an extension in writing to SOMB. Extensions may be granted in six-month increments. In the absence of a compelling justification, the SOMB reserves the right to deny a request for extension.

4.6 Reciprocity

- 4.6.1 The Credentialing Subcommittee of the SOMB may waive any initial requirements of the applicant after reviewing the application and determining that hours of supervision obtained out-of-state under the supervision of a qualified sex-offense service provider may be transferred to Delaware.
- 4.6.2 Hours of supervision must be within the past five (5) years and supervision must be equivalent to those set forth by the Delaware SOMB.
- 4.6.3 The applicant must meet the minimum standards as set forth by the SOMB in Delaware.
- 4.6.4 An ASOSP approved by the Delaware SOMB through reciprocity is valid for two (2) years. Upon expiration of the two (2) year period, the ASOSP must apply to become a CSOSP to maintain affiliation with SOMB.
- 4.6.5 If the individual has not met requisite experience and training requirements upon expiration of two (2) years, the individual may request an extension in writing to SOMB. Extensions may be granted in six-month increments. In the absence of a compelling justification, the SOMB reserves the right to deny a request for extension.

4.05.0 Application Process

4.15.1 By submitting an application to be credentialed as a Sex Offense Service Provider by the SOMB, the applicant agrees that they have done so voluntarily and that they have reviewed and understood all qualifications as stated in Section 3.0 of this regulation.

4.25.2 Upon submitting an application, the application attests that:

4.2.15.2.1 They meet the minimum necessary requirements and qualifications to be credentialed as a Sex Offense Service ~~Provider.~~ Provider;

4.2.25.2.2 The information that they provided through the application process is accurate and ~~truthful.~~ truthful;

4.2.35.2.3 They understand that the Sex Offender Management Board and the Credentialing Subcommittee has statutory responsibility and final authority for making all initial and renewal credentialing decisions, including approval, disapproval, suspension, revocation, or other monitoring of the ~~credentialing.~~ credentialing; and

4.2.45.2.4 The address for where the applications should be sent can be found on the SOMB website or the State of Delaware Department of Safety and Homeland Security website.

5.3 Exigent Circumstances

5.3.1 During declared states of emergency, the SOMB Credentialing Subcommittee may, but is not required to, waive or modify minimum standards for initial credentialing (CSOSP) or registering (ASOSP) as reasonably necessary to provide accommodations necessitated by the circumstances that caused a state of emergency to be declared.

5.3.2 All applicants are required to comply with the minimum standards, if practicable, when the state of emergency is lifted.

5.3.3 All provisional approvals will be evaluated in six-month increments.

22 DE Reg. 617 (01/01/19)

5.06.0 Credentialing Subcommittee of the SOMB

5.16.1 The Credentialing Subcommittee of the SOMB shall be authorized as an extension of the SOMB to credential Sex Offense Service Providers as well as oversee and make determinations on disciplinary matters with credentialed Sex Offense Service Providers.

5.26.2 The Credentialing Subcommittee of the SOMB shall be comprised of a total of seven voting (7) members.

5.2.16.2.1 At least two (2) members of the Credentialing Subcommittee must be members of the SOMB who are currently licensed mental health professionals.

5.2.26.2.2 Two (2) members of the Credentialing Subcommittee must be licensed mental health professionals in Delaware who are unaffiliated with SOMB. These members shall not be credentialed Sex Offense Service Providers, but may have specialized knowledge in working with sexual offenses.

5.2.2.16.2.2.1 These members may self-nominate or be suggested by members of the SOMB.

5.2.36.2.3 The three (3) remaining Credentialing Subcommittee members must be SOMB members. A mental health background is not required, but an understanding of adherence to professional standards is preferred.

5.36.3 The Credentialing Subcommittee members shall be selected by majority vote through the SOMB.

5.46.4 The Credentialing Subcommittee members who are members of the SOMB may serve for the duration of their appointment to the SOMB.

5.56.5 The Credentialing Subcommittee members who are not SOMB members will serve for a two (2) year term and can reapply after two (2) years.

5.66.6 The Credentialing Subcommittee members shall meet monthly unless no pending matters exist.

22 DE Reg. 617 (01/01/19)

6.07.0 SOMB Process for Credentialing Sex Offense Service Providers

The applications will be reviewed and processed by the Credentialing Subcommittee of the SOMB.

22 DE Reg. 617 (01/01/19)

7.08.0 Reciprocity

7.18.1 The Credentialing Subcommittee of the SOMB may waive any initial credentialing requirements of the applicant after receiving the applicant's credentials and determining that the applicant holds a current license/certification/credential from another state that has requirements that are substantially equivalent to those set forth by the Delaware SOMB.

7.1.18.1.1 The applicant must meet the minimum standards as set forth by the SOMB in Delaware.

~~7.4.28.1.2~~ An applicant who has initially been credentialed by the Delaware SOMB through reciprocity must meet all requirements/qualifications and follow the same procedure as other Delaware renewal applicants as set forth by Delaware for all subsequent renewals of their credentialing.

22 DE Reg. 617 (01/01/19)

8.09.0 Inactive Status

~~8.49.1~~ A credentialed provider may voluntarily request to have their credentialing through the SOMB be placed on inactive status by submitting a written request to the Board. The request must specify the reason for the request to be placed on inactive status and the date of which they would like their inactivity to begin.

~~8.4.49.1.1~~ The Credentialing Subcommittee of the SOMB shall respond in writing within 15 business days of receipt of the request to provide confirmation of the request.

~~8.4.29.1.2~~ A person placed on voluntary inactive status shall be removed from the central roster of credentialed Sex Offense Service Providers.

~~8.4.39.1.3~~ It is the responsibility of the credentialed Sex Offense Service Provider who has chosen to be placed on voluntary inactive status to notify their present and prospective clients that they are on inactive status as a credentialed Sex Offense Service Provider.

~~8.4.49.1.4~~ A person who has been placed voluntarily on inactive status for less than 365 days may reapply for credentialing in accordance with the certification renewal process ~~and any processing fees shall be waived.~~ or request an extension of time to meet the certification renewal requirements. Extensions will be granted in six-month increments and are determined case-by-case.

~~8.4.59.1.5~~ A person who has been placed voluntarily on inactive status for more than 365 days may reapply for credentialing in accordance with the initial certification process and submit the applicable processing fees.

22 DE Reg. 617 (01/01/19)

9.010.0 Complaint Process

~~9.410.1~~ The complaint process may be initiated by the Credentialing Subcommittee of the SOMB's receipt of a written complaint from any person regarding a credentialed Sex Offense Service Provider.

~~9.210.2~~ All complaints must be in writing and contain the following information:

~~9.2.410.2.1~~ The full name and address of the ~~complainant.~~ complainant:

~~9.2.4.410.2.1.1~~ Anonymous complaints will be accepted; however, if the Credentialing Subcommittee of the SOMB is unable to obtain sufficient information to substantiate the allegations, the complaint will be dismissed.

~~9.2.210.2.2~~ The name and address of the credentialed Sex Offense Service ~~Provider.~~ Provider; and

~~9.2.310.2.3~~ A clear and accurate statement of the facts describing the allegations against the credentialed Sex Offense Service Provider.

~~9.310.3~~ Complaints against individuals who are not credentialed Sex Offense Service Providers will not be reviewed by the Credentialing Subcommittee of the SOMB.

~~9.410.4~~ The Credentialing Subcommittee of the SOMB will provide written notice to the complainant that the complaint has been received and is under review. Notice shall be written within 5 business days of receiving the complaint.

~~9.510.5~~ The identity of the complainant will remain confidential until it is determined that disciplinary action will be taken.

~~9.610.6~~ In the event that the complaint against the credentialed Sex Offense Service Provider was first brought to the attention of the SOMB, but also appears to encompass issues related to the credentialed Sex Offense Service Provider's professional license, the SOMB will forward the complaint to the Division of Professional Regulation in Delaware for their simultaneous review.

~~9.6.410.6.1~~ Complaints that are forwarded to the Division of Professional Regulation that appear to be significant and warrant immediate action by the Credentialing Subcommittee of the SOMB will be handled under the guidelines of the Emergency Suspension as listed in subsection ~~40.3~~ 11.3 of this regulation.

22 DE Reg. 617 (01/01/19)

40.011.0 Disciplinary Process

~~40.411.1~~ The Credentialing Subcommittee of the SOMB may deny, revoke, suspend, or otherwise monitor credentialing of an applicant or person who is currently credentialed as a Sex Offense Service Provider for any

of the following reasons as they relate specifically to the credentialed Sex Offense Service Provider's treatment and evaluation of individuals who have engaged in sexually problematic behavior:

- ~~40.1.411.1.1~~ Failure to meet or maintain the minimum eligibility requirements for credentialing as established by the ~~SOMB~~. SOMB;
 - ~~40.1.211.1.2~~ Falsification of any information or documentation, or concealing a material fact in the application for (re)certification, or during any investigation or quality assurance ~~review~~. review;
 - ~~40.1.311.1.3~~ Failure to comply with 1 **DE Admin. Code** 1100 or the standards adopted by the ~~SOMB~~. SOMB;
 - ~~40.1.411.1.4~~ Failure to cooperate during any investigation concerning ~~credentialing~~. credentialing;
 - ~~40.1.511.1.5~~ Failure to comply with any final order issued by the Credentialing Subcommittee of the SOMB, informal disciplinary measures, or remedial steps or corrective action ordered by the Credentialing Subcommittee of the SOMB as a condition of continued certification, including continuing to claim having credentials that have been suspended or ~~restricted~~. restricted;
 - ~~40.1.611.1.6~~ Engaging in conduct that departs from the SOMB ~~standards~~. standards;
 - ~~40.1.711.1.7~~ 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~~. board; and
 - ~~40.1.811.1.8~~ Complaints involving primarily issues related to the general provision of treatment and evaluation services and only secondarily involve sex offense treatment and evaluations will first be reviewed by their professional licensure board before the Credentialing Subcommittee of the SOMB makes a determination as to how to proceed unless an Emergency Suspension as a credentialed Sex Offense Service Provider is warranted.
- ~~40.211.2~~ Mirroring orders and emergency suspensions
- ~~40.2.411.2.1~~ In the event that a state licensing board with authority over a credentialed Sex Offense Service Provider's professional license takes action against their professional license in any fashion which suspends, restricts, limits or affects the Sex Offense Service Provider's ability to provide services pursuant to their credential from the SOMB, the credential holder will promptly notify the Credentialing Subcommittee of the SOMB of the action. Failure to do so could result in additional disciplinary action from the Credentialing Subcommittee of the SOMB.
 - ~~40.2.211.2.2~~ Upon notification of such action and receipt of an official order from the respective professional licensing board, the Credentialing Subcommittee of the SOMB shall be authorized to issue its order suspending, restricting limiting or otherwise affecting the Sex Offense Service Provider's credential in the same fashion as the professional licensing board action.
 - ~~40.2.311.2.3~~ The Credentialing Subcommittee of the SOMB's decision may be issued without further hearing or proceeding but shall be subject to the effect of any reversal or modification of the professional licensing board action by reason of rehearing or appeal.
- ~~40.311.3~~ Emergency Suspension
- ~~40.3.411.3.1~~ If the Credentialing Subcommittee of the SOMB finds that public health, safety or welfare requires immediate emergency action, the Credentialing Subcommittee of the SOMB may take such action necessary to prevent or avoid the immediate danger.
 - ~~40.3.211.3.2~~ The Credentialing Subcommittee of the SOMB may issue an order suspending a Sex Offense Service Provider's credential pending formal proceedings for revocation or other action. Such order shall include a brief, reasoned statement justifying the existence of an emergency and the decision to take a specific action. The order will be effective when issued.
 - ~~40.3.311.3.3~~ After issuance of an emergency order, the Credentialing Subcommittee of the SOMB will immediately initiate the disciplinary process procedures that would have occurred had the emergency not existed.
 - ~~40.3.411.3.4~~ The emergency suspension shall not exceed a period of one year from the date it was enacted.
- 22 DE Reg. 617 (01/01/19)**

44.012.0 Sanctions

- ~~44.412.1~~ If the Credentialing Subcommittee of the SOMB determines that there has been a violation of 1 **DE Admin. Code** 1100 or the standards adopted by the SOMB, then it may impose any of the following ~~sanction(s)~~ sanctions, singularly or in combination:
 - ~~44.1.412.1.1~~ Formal Discipline which restricts or impedes the credentialed Sex Offense Service Provider's ability to perform services under that credential. Formal disciplinary action decisions will be posted on the SOMB website and central database of credentialed Sex Offense Service ~~Providers~~. Providers;

44.1.1.12.1.1.1 Suspension. A credential may be suspended by the Credentialing Subcommittee of the SOMB for a period not to exceed one (1) year. Upon a second or subsequent suspension, the credential may be suspended for a period not to exceed five (5) years. During the period of suspension, the Sex Offense Service Provider may not perform any credentialed sex offense services in the state of Delaware.

44.1.1.212.1.1.2 Revocation. A credential may be revoked permanently by the Credentialing Subcommittee of the SOMB.

44.1.1.312.1.1.3 Restrictions. A credential may be restricted by requiring the Sex Offense Service Provider to comply with the Credentialing Subcommittee of the SOMB's directives. The duration of the restriction placed on the credential will be established by a specified date, by the performance of certain remedial or corrective action, or a combination thereof. The duration of a restriction of a credential shall not exceed one (1) year.

44.1.212.1.2 Informal Discipline. Informal disciplinary actions do not restrict or impede a credentialed Sex Offense Service Provider's ability to perform sex offense services. Informal disciplinary actions are not public and will not be posted on the SOMB website or central database of credentialed Sex Offense Service Providers. Providers:

44.1.2.412.1.2.1 Monitoring. This consists of routinely reviewing a credentialed Sex Offense Service Provider's performance to assist them with understanding the dynamics of the population served and compliance with the SOMB's standards. Monitoring may include the recommendation of specialized training or the use of a mentor approved by the ~~SOMB.~~ SOMB:

44.1.2.212.1.2.2 Letters of Informal Reprimand or Counseling. This is used to provide guidance or recommendations to the credentialed Sex Offense Service Provider regarding areas for ~~improvement.~~ improvement; and

44.1.2.312.1.2.3 Probation. The Credentialing Subcommittee of the SOMB may withhold using formal discipline and place the credentialed Sex Offense Service Provider on probation not to exceed two (2) years. The Credentialing Subcommittee of the SOMB may impose any conditions of probation deemed necessary to ensure compliance with the SOMB's standards of practice. Failure to comply with a probationary term may result in the imposition of any suspended discipline following a hearing.

44.1.2.412.2 Credential holders facing informal disciplinary action will not have the right to a hearing and do not have the right to appeal the Credentialing Subcommittee of the SOMB's decision for informal disciplinary action. Informal discipline occurs at the sole discretion of the Credentialing Subcommittee of the SOMB. Credentialed Sex Offense Service Providers may face formal disciplinary action for not complying with any informal disciplinary action as agreed to by both parties. Should the credentialed Sex Offense Service Provider not agree to the informal disciplinary action recommended by the Credentialing Subcommittee of the SOMB, the Credentialing Subcommittee of the SOMB reserves the right to initiate formal disciplinary proceedings.

44.212.3 Credentialed Sex Offense Service Providers who are facing formal disciplinary action will have the right to a hearing as provided below.

44.312.4 The Credentialing Subcommittee of the SOMB is not authorized to impose civil remedies, such as monetary damages or restitution, to compensate complainants or to resolve fee disputes, which are civil matters.

44.412.5 The Credentialing Subcommittee of the SOMB is not authorized to impose criminal penalties.

22 DE Reg. 617 (01/01/19)

42.013.0 Notice of Intent to take Formal Disciplinary Action

42.413.1 If the Credentialing Subcommittee of the SOMB decides to pursue formal disciplinary action against the credentialed Sex Offense Service Provider, a Notice of Intent to take formal disciplinary action will be mailed to the credentialed Sex Offense Service Provider.

42.213.2 The Notice of Intent will include the following information:

42.2.413.2.1 The allegations against the credential ~~holder.~~ holder;

42.2.213.2.2 The identified violations of law, rule, ~~and/or standards.~~ or standards;

42.2.313.2.3 The formal disciplinary action sought by the Credentialing Subcommittee of the ~~SOMB.~~ SOMB;

42.2.413.2.4 A notice of the credentialed Sex Offense Service Provider's right to a pre-decision hearing and the right to be ~~represented.~~ represented;

~~12.2.5~~13.2.5 A notice of default if the credentialed Sex Offense Service Provider fails to request a pre-decision hearing or otherwise fails to respond. This will result in issuance of a final order imposing the proposed ~~discipline.~~ discipline; and

~~12.2.6~~13.2.6 A proposed stipulation to resolve the matter without a hearing.

~~12.2.6.1~~13.2.6.1 Resolution by stipulation is a process to impose formal discipline upon a credentialed Sex Offense Service Provider whereby the credentialed Sex Offense Service Provider and Credentialing Subcommittee of the SOMB agree to the violations and formal discipline.

~~12.2.6.2~~13.2.6.2 Upon the credentialed Sex Offense Service Provider signing the stipulation to resolve the disciplinary matter, the signed stipulation will be presented to the Credentialing Subcommittee of the SOMB for approval and the issuance of a final order imposing the agreed upon formal discipline.

22 DE Reg. 617 (01/01/19)

43.014.0 Process for Requesting a Hearing

~~13.1~~14.1 The credentialed Sex Offense Service Provider has 30 days from the date that the written notice of complaint was mailed to the credentialed Sex Offense Service Provider to request a pre-decision hearing. The request is filed when it is received by the Credentialing Subcommittee of the SOMB or postmarked within the time limits set forth in these standards.

~~13.2~~14.2 All requests for a hearing must be submitted in writing and provide the following:

~~13.2.1~~14.2.1 A copy of the decision that is the subject of the ~~hearing.~~ hearing;

~~13.2.2~~14.2.2 A statement setting forth the reason for disagreement with the Credentialing Subcommittee of the SOMB's ~~decision.~~ decision; and

~~13.2.3~~14.2.3 A statement of the remedy requested.

~~13.3~~14.3 The credentialed Sex Offense Service Provider is entitled to have legal representation present at the pre-decision hearing; however, this will be at the expense of the credentialed Sex Offense Service Provider.

~~13.4~~14.4 Once the Credentialing Subcommittee of the SOMB has received a request for a pre-decision hearing, the pre-decision meeting shall be held within a reasonable time not to exceed 60 calendar days, unless agreed upon by both parties.

22 DE Reg. 617 (01/01/19)

44.015.0 Hearing Process

~~14.1~~15.1 The credentialed Sex Offense Service Provider will present their reason for a pre-decision hearing before the Credentialing Subcommittee of the SOMB to respond to the proposed action, and offer reasons why the proposed discipline may not be justified or is too severe.

~~14.2~~15.2 Any documents that the credentialed Sex Offense Service Provider wishes to be considered at the hearing must be provided to the Credentialing Subcommittee of the SOMB at least 7 calendar days prior to the scheduled hearing date.

~~14.3~~15.3 Names of additional parties that the credentialed Sex Offense Service Provider wishes to call as witnesses at the hearing must be provided to the Credentialing Subcommittee of the SOMB at least 7 calendar days prior to the scheduled hearing date.

~~14.4~~15.4 The Credentialing Subcommittee of the SOMB will hear the case presented by the credentialed Sex Offense Service Provider and decide if the evidence before them alters their original decision to impose formal discipline to the credentialed Sex Offense Service Provider.

~~14.5~~15.5 The Credentialing Subcommittee of the SOMB will make their determination at the conclusion of the hearing and a formal letter documenting the findings will be issued to the credentialed Sex Offense Service Provider within 15 calendar days following the hearing.

22 DE Reg. 617 (01/01/19)

45.016.0 Appealing the Decision from a Pre-Decision Hearing

~~15.1~~16.1 The credentialed Sex Offense Service Provider has 30 days from the date that the decision of the pre-decision hearing was made to appeal the decision. The request for appeal is filed when it is received by the Credentialing Subcommittee of the SOMB or postmarked within the time limits set forth in these standards.

~~15.2~~16.2 The grounds for the appeal as well as the original decision by the Credentialing Subcommittee will be reviewed by the Chair or Acting Chair of the SOMB. They will decide if the decision by the Credentialing

Subcommittee will be upheld. The decision of the Chair or Acting Chair of the SOMB is final and cannot be appealed.

22 DE Reg. 617 (01/01/19)

46.017.0 Reinstatement of Credential for Sex Offense Service Provider

~~46.117.1~~ If the credentialed Sex Offense Service Provider's credential has been formally suspended, revoked or restricted or the credentialed Sex Offense Service Provider was placed on monitoring or probation, the Sex Offense Service Provider may apply by written letter for reinstatement of their credential after the duration of the imposed discipline has passed.

~~46.217.2~~ The Sex Offense Service Provider must provide evidence that they have complied with any corrective action ordered by the Credentialing Subcommittee of the SOMB.

~~46.317.3~~ If the Sex Offense Service Provider's credential had been revoked, they must follow the initial application process in order to become credentialed again.

~~46.3-417.3.1~~ The Credentialing Subcommittee of the SOMB shall have the discretion to impose any monitoring conditions upon a Sex Offense Service Provider whose credential had been reinstated.

17 DE Reg. 989 (04/01/14)

22 DE Reg. 617 (01/01/19)

24 DE Reg. 995 (05/01/21) (Prop.)