

Dear Senators LAKEY, Ricks, Burgoyne, and
Representatives CHANEY, Hartgen, Gannon:

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

IDAPA 57.01.01 - Rules of the Sexual Offender Management Board (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 57-0101-2201).

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 09/30/2022. 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 10/28/2022.

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 334-4854, or send a written request to the address on the memorandum attached below.



Terri Kondoff
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 Drafting Attorney - Ryan Bush

DATE: September 13, 2022

SUBJECT: Sexual Offender Management Board

IDAPA 57.01.01 - Rules of the Sexual Offender Management Board (ZBR Chapter Rewrite, Fee Rule) - Proposed Rule (Docket No. 57-0101-2201)

Summary and Stated Reasons for the Rule

The Sexual Offender Management Board submits notice of a proposed rulemaking at IDAPA 57.01.01 - Rules of the Sexual Offender Management Board (ZBR Chapter Rewrite, Fee Rule). The proposed chapter rewrite is being done pursuant to the Governor's Zero-Based Regulation executive order. The Board states that this rulemaking eliminates unnecessary and duplicative information and consolidates all fee information under the same rule. Specifically, this chapter rewrite provides for the following: training and certification criteria for psychosexual evaluators and treatment providers; qualifications of polygraph examiners; standards for professional conduct and client relations; and fees for certification application/renewal.

Negotiated Rulemaking / Fiscal Impact

Negotiated rulemaking was conducted and notice was published in the August edition of the Idaho Administrative Bulletin. There is no fiscal impact anticipated with this rulemaking.

Statutory Authority

The proposed rulemaking appears to be within the statutory authority granted to the Board in Section 18-8314, Idaho Code.

cc: Sexual Offender Management Board
Nancy Volle

*** PLEASE NOTE ***

Per the Idaho Constitution, all administrative rules may be reviewed by the Legislature during the next legislative session. The Legislature has 3 options with this rulemaking docket: **1)** Approve the docket in its entirety; **2)** Reject the docket in its entirety; or **3)** Reject the docket in part.

Paul Headlee, Deputy Director Kristin Ford, Manager Keith Bybee, Manager April Renfro, Manager Glenn Harris, Manager
Legislative Services Office Research & Legislation Budget & Policy Analysis Legislative Audits Information Technology

Statehouse, P.O. Box 83720
Boise, Idaho 83720-0054

Tel: 208-334-2475
legislature.idaho.gov

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD
57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD
DOCKET NO. 57-0101-2201 (ZBR CHAPTER REWRITE, FEE RULE)
NOTICE OF RULEMAKING – PROPOSED RULE

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

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be scheduled if requested in writing by twenty-five (25) persons, a political subdivision, or an agency, not later than September 21, 2022.

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

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

Following [Executive Order 2020-01: Zero-Based Regulation](#), this rule chapter is scheduled to be rewritten in 2022 for review during the 2023 legislative session. The department anticipates reducing the overall regulatory burden by reducing both total word count and the number of restrictive words in the new rule chapter. The department will review the rule with stakeholders to ensure that it is right-sized. This rulemaking eliminates unnecessary or duplicative information and moves all fee information under the same rule.

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

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously submitted to and reviewed by the Idaho Legislature in the prior rules.

- 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 sexual offender treatment provider, and associate/supervised level post-conviction sexual offender polygraph examiners.
- Fifty dollars (\$50) for initial certification application and thirty dollars (\$30) for annual certification renewal applications for entry-level provisional/supervised psychosexual evaluators and provisional/supervised sexual offender treatment providers.
- Twenty-five dollars (\$25) for 60-day continuing education (CEU) extension.

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 as a result of this rulemaking:

This rulemaking is not anticipated to have any negative fiscal impact on the State General Fund.

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(1), Idaho Code, negotiated rulemaking was conducted. The Notice of Intent to Promulgate Rules - Negotiated Rulemaking was published in the August 3, 2022 Idaho Administrative Bulletin, [Volume 22-8, pages 98-99](#).

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

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

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

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the proposed rule, contact Nancy Volle at (208) 605-4782.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 28, 2022.

DATED this 17th day of August, 2022.

Nancy Volle, SOMB Program Manager
Sexual Offender Management Board
1299 N Orchard St Ste#110
Boise, ID 83706
Phone: (208) 605-4782
somb@idoc.idaho.gov

THE FOLLOWING IS THE PROPOSED TEXT OF FEE DOCKET NO. 57-0101-2201
(Zero Based Regulation (ZBR) Chapter Rewrite)

57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD

000. LEGAL AUTHORITY.
Sections 18-8312 through 18-8316, Idaho Code. ()

001. SCOPE.
These rules provide procedures for the Sexual Offender Management Board. ()

002. (RESERVED)

003. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules: ()

01. The American Association of Police Polygraphists “Standards and Principles,” © AAPP 2018 v.14.110. Available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068, website <https://www.americanassociationofpolicepolygraphists.org/web/public/standards>. ()

02. The American Polygraph Association (APA) “Standards of Practice,” effective August 23, 2019, and “Code of Ethics,” effective September 1, 2015. Available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website <https://www.polygraph.org>. ()

03. “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices,” October 2020 revision. Available from the Board’s office and on the Board website, <https://somb.idaho.gov/>. ()

04. “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders,” October 2020 revision. Available from the Board’s office and on the Board’s website, <https://somb.idaho.gov/>. ()

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. 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. ()

02. 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. ()

03. Certified Post Conviction Sex Offender Polygraph Examiner. A polygraph examiner who has received specialized post conviction sexual offender testing training, and who is certified by the Board to conduct post conviction sexual offender polygraph examinations as ordered or required by the court, Idaho Department of Correction, or Idaho Commission for Pardons and Parole. A person meeting this definition may be certified by the Board as either a senior/approved post conviction sexual offender polygraph examiner or an associate/supervised post conviction sexual offender polygraph examiner. ()

04. 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. ()

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

06. Established Standards. The “Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices” and the “Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders” as referenced in these rules and established pursuant to Section 18-8314, Idaho Code. ()

07. 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 clinical supervision of a senior/approved psychosexual evaluator. A person with a provisional/supervised psychosexual evaluator certificate is not considered to be a certified evaluator as defined in Section 18-8303, Idaho Code or for the purposes of conducting a psychosexual evaluation in accordance with Section 18-8316, Idaho Code. Certification approval is specific to adult or juvenile clients. ()

08. 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 clinical supervision of a senior/approved sex offender treatment provider. Certification approval is specific to adult or juvenile clients. ()

09. 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. ()

10. Supervision. ()

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 ()

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

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

11. 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. ()

011. ABBREVIATIONS.

01. PCSOT. "Post conviction sexual offender testing" is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post convicted sexual offenders. ()

02. SOMB. The Sexual Offender Management Board. ()

012. -- 019. (RESERVED)

020. RECORDKEEPING.

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

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. ()

021. -- 039. (RESERVED)

040. CERTIFIED EVALUATOR QUALIFICATIONS.

01. Certified Evaluators. 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. Certification approval is specific to adult or juvenile clients, but a certificate holder may be separately approved to provide services to both adult and juvenile clients. ()

041. LEVELS OF PSYCHOSEXUAL EVALUATOR CERTIFICATION.

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

01. Senior/Approved Psychosexual Evaluator. ()

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. ()

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

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

02. Associate/Supervised Psychosexual Evaluator. ()

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. ()

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

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 ()

d. May 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. ()

03. Provisional/Supervised Psychosexual Evaluator. ()

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; ()

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; ()

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

042. -- 079. (RESERVED)

080. SEXUAL OFFENDER TREATMENT PROVIDER QUALIFICATIONS.

01. Certified Sexual Offender Treatment Provider. 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. ()

- a. Certification approval is specific to adult or juvenile clients. ()
- b. A certificate holder may be separately approved to provide services to both adult and juvenile clients. ()

081. LEVELS OF SEXUAL OFFENDER TREATMENT PROVIDER CERTIFICATION.

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

01. Senior/Approved Sexual Offender Treatment Provider. ()

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 ()

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

02. Associate/Supervised Sexual Offender Treatment Provider. ()

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. ()

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

c. May 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. ()

03. Provisional/Supervised Sexual Offender Treatment Provider. ()

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 ()

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. ()

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

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: ()

01. Sexually Abusive Behavior. Contemporary research regarding the etiology of sexually abusive behavior; ()

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

03. Assessment, Treatment, and Management of Adult or Juvenile Sex Offenders. Contemporary research and practice in the areas of assessment, treatment, and management of adult or juvenile sex offenders; ()

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

05. Deviant Sexual Arousal and/or Interests. Physiological assessment of deviant sexual arousal and/or interests. ()

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. ()

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-year period prior to each renewal period as set forth in the established standards issued by the Board. A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements. ()

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. A certificate holder not meeting the continuing education requirements may formally petition the SOMB for a sixty-day extension to submit proof of meeting continuing education requirements. ()

102. -- 149. (RESERVED)

150. REQUEST FOR CONDITIONAL WAIVER.

01. Conditional Waiver. The Board may consider an initial applicant's request for a time limited conditional waiver for deficiencies in experience and specialized training qualifications as set forth in the established standards issued by the Board. ()

02. Duration. A conditional waiver is limited to a period of only two (2) years. ()

03. Frequency. A conditional waiver request may only be considered one (1) time for an initial certification application for psychosexual evaluator and sexual offender treatment provider applicants at the senior/approved or associate/supervised level. ()

151. (RESERVED)

152. RECIPROCITY.

Applications for certification based on reciprocity will be processed in accordance with section 67-9409, Idaho Code and the established standards issued by the Board. ()

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 only applies while the employee is acting within the course and scope of his employment with the applicable agency. ()

154. (RESERVED)

155. APPLICATION FOR CHANGE IN CERTIFICATION LEVEL.

Application for change in certification level may be made at any time during an effective certification. The application must be submitted on a form provided by the Board with required supporting documentation and non-refundable fee. The application fee will be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. ()

156. -- 199. (RESERVED)

200. POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER QUALIFICATIONS.

01. Certified Examiner. 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. There is not a separate certification specific to adult or juvenile clients. ()

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

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

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

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

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

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

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

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

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

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

202. -- 230. (RESERVED)

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 thirty (30) hours of continuing education related to the field of polygraphy in the form of formal conferences, symposia, seminars, or workshops over the course of the two-year period prior to each renewal period as set forth in the established standards issued by the Board. A certificate holder not meeting the continuing education requirements may formally petition the Board for a sixty-day extension to submit proof of meeting continuing education requirements. ()

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: ()

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; ()

b. Be knowledgeable of statutes and scientific data relevant to specialized sexual offender evaluation and sexual offender treatment; ()

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

d. Be committed to community protection and safety; ()

e. Provide services in a manner that ensures humane and ethical treatment of clients; ()

f. Conduct testing in accordance with the person's licensing body, qualifications and experience, and in a manner that ensures the integrity of testing data; ()

g. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; and ()

h. Have no sexual relationships with any client. ()

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: ()

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; ()

b. Adhere to the standards and guidelines specific to post conviction sexual offender testing as promulgated by the APA; ()

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 APA or the American Association of Police Polygraphists, as referenced in Section 003 of these rules; ()

d. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; ()

e. Have no sexual relationships with any client; ()

f. Take factors such as age, mental capacity and co-occurring mental health concerns into

consideration when utilizing polygraphy with juvenile offenders; ()

g. Be committed to community protection and safety; and ()

h. Provide services in a manner that ensures humane and ethical treatment of clients. ()

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 and client population, if applicable, accompanied by documentation as outlined in the established standards issued by the Board and an initial certification application fee made payable to the Board. ()

331. EXPIRATION AND RENEWAL OF CERTIFICATION.

No certification shall be renewed, except as follows: ()

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 and client population, if applicable, accompanied by documentation as outlined in the established standards issued by the Board and a renewal certification application fee made payable to the Board. ()

02. Removal from the Roster. A certificate holder who has not renewed his certification will be removed from the central roster. ()

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

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. ()

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. ()

332. FEES.

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

01. Initial Certification. Application processing fees for initial certification are: ()

a. Senior/Approved Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). ()

b. Associate/Supervised Psychosexual Evaluator, Treatment Provide, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars (\$75). ()

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Fifty dollars (\$50). ()

02. Renewal Certification. Application processing fees for renewal certification are: ()

a. Senior/Approved Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). ()

b. Associate/Supervised Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars (\$50). ()

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Thirty dollars (\$30). ()

03. Change in Certification Level. Application processing fees for a change in certification level are: ()

a. Advance to Senior/Approved Level of Certification- Fifty dollars (\$50). ()

b. Advance to Associate/Supervised Level of Certification- Thirty dollars (\$30). ()

c. Change to a Less Independent Level of Certification - Fifty dollars (\$50). ()

04. Continuing Education Extension. Application processing fee for a request for an extension of time to complete continuing education requirements is twenty-five dollars (\$25). ()

333. CERTIFICATION PERIOD.

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

01. Senior/Approved Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder’s month of birth two (2) years following initial certification and every two (2) years thereafter. ()

02. Associate/Supervised Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder’s month of birth two (2) years following initial certification and every two (2) years thereafter. ()

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

04. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder’s month of birth two (2) years following initial certification and every two (2) years. ()

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

334. APPLICABILITY AND NOTIFICATION OF CHANGES.

Certification only applies to the person named therein and is not transferable. 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. ()

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 will be removed from the central roster. A person who has been placed on inactive status may reapply for certification in accordance with the established standards issued by the Board. ()

336. -- 379. (RESERVED)

380. DENIAL AND GROUNDS FOR DISCIPLINE.

The Board may deny, suspend, revoke, restrict, or otherwise monitor certification of an applicant or certificate holder

if the individual fails to comply with Section 18-8316, Idaho Code, any portion of this chapter, or the established standards issued by the Board. ()

01. Mirroring Orders. If a state licensing board with authority over a certificate holder's professional license takes action against the professional license which suspends, restricts, limits, or affects the certificate holder's ability to provide services pursuant to their SOMB certification, the SOMB is authorized to issue an order suspending, restricting, limiting, or otherwise affecting the certificate holder's SOMB certification in the same fashion as the professional licensing board's action. ()

02. 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. ()

03. 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. ()

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; ()

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; ()

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; ()

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; ()

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. ()

382. -- 384. (RESERVED)

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. ()

386. -- 399. (RESERVED)

400. QUALITY ASSURANCE.

Policies for technical review and quality assurance of psychosexual evaluation reports and sexual offender treatment services and polygraph examinations are outlined in the established standards issued by the Board. ()

401. -- 449. (RESERVED)

450. PSYCHOSEXUAL EVALUATIONS.

01. Adult Psychosexual Evaluations. Pre-sentence psychosexual evaluations on adult sexual offenders shall be conducted pursuant to the established standards issued by the Board and written utilizing the "Required Format for Psychosexual Evaluation Reports," found in the Idaho Sexual Offender Management Board Standard and Guidelines for Adult Sexual Offender Management Practices incorporated by reference in Subsection 003.03 of these rules. ()

02. Juvenile Psychosexual Evaluations. Psychosexual evaluations on juveniles adjudicated for sexual offenses shall be conducted in accordance with the established standards issued by the Board and written utilizing the "Required Format for Juvenile Psychosexual Evaluation Reports," found in the Idaho Sexual Offender Management Board Standard and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders incorporated by reference in Subsection 003.04 of these rules. ()

03. Testing. The evaluator shall utilize testing instrumentation and assessment measures as outlined in the established standards issued by the Board. ()

04. 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. ()

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 follow the established standards issued by the Board. ()

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 follow the established standards issued by the Board. ()

501. -- 999. (RESERVED)

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: Nancy Volle **Phone:** 208-605-4782

Date: August 17, 2022

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: X Proposed Temporary

Rulemaking Docket Number: 57-0101-2201

STATEMENT OF ECONOMIC IMPACT:

Initial Senior and Associate Evaluator or Treatment Provider Certification	\$75
Initial Senior and Associate PCSOT Polygraph Examiner Certification	\$75
Biennial Senior and Associate Evaluator or Treatment Provider Renewal	\$50
Biennial Senior and Associate PCSOT Polygraph Examiner Renewal	\$50
Initial Provisional Evaluator or Treatment Provider Certification	\$50
Annual Provisional Evaluator or Treatment Provider Renewal	\$30
Continuing education extension fee	\$25

These fees are unchanged from the previous year's temporary fee rule.