Maryland Sexual Offender Advisory Board

2012 Report to the Maryland General Assembly

MSAR # 8425

The Honorable Martin O'Malley
Governor of Maryland
100 State Circle
Annapolis, Maryland 21401

Governor O'Malley:

This year the Maryland Sexual Offender Advisory Board's work emphasized the need to plan for and develop a statewide system for identifying and training a group of professionals who specialize in sexual offender treatment. This foundational work is essential due to a lack of specifically trained treatment professionals with the specialized knowledge of and experience with adult and juvenile sexual offender populations.

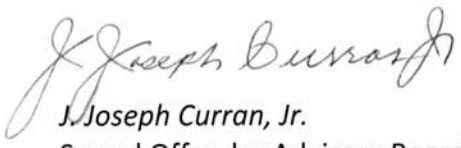
It is widely accepted by experts in the field that an unaccompanied criminal justice response is not sufficient to reduce or prevent sexual offending. In order to prevent sexual violence we must fully understand the impulses, influences, and situations that contribute to its occurrence and use that understanding to reduce re-offense. Specialized sexual offender treatment has continued to evolve over the last thirty years and incorporates many psychological models that target the social and cognitive skills of the offender. It may include group and individual therapy sessions as well as psycho-educational training sessions. These therapeutic interventions are intended to prevent or reduce an offender's risk of reoffending by directly addressing the drives and circumstances that contribute to the offender's offense pattern.

In response to the evidence-based practices in use by other states, the 2006 Maryland General Assembly mandated that "certified sexual offender treatment providers" be a part of the collaborative team that manages convicted sexual offenders under supervision in the community. The General Assembly also tasked the Sexual Offender Advisory Board with creating a certification process. This report documents the Board's recommendations regarding a process for ensuring that treatment providers have access to the training and resources they need to become approved as specialists in the area of sexual offender treatment.

This report also documents the Board's recommendations regarding procedures for adjudicating violations of Lifetime Sexual Offender Supervision and to responding to petitions for termination of Lifetime Sexual Offender Supervision. Neither of these issues was specifically addressed in the original legislation, and the success of the proposed procedures is dependent upon the General Assembly's action in implementing the specific legislative changes presented in this report.

The Sexual Offender Advisory Board will continue to meet during the year ahead to respond to requests to investigate evidence-based practices, to propose necessary modifications to existing practice, and to continue monitoring the effectiveness of our ongoing efforts to protect our communities from the destructive effects of sexual crime.

Sincerely,



J. Joseph Curran, Jr.
Sexual Offender Advisory Board, Chair

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	Vacant, Asst. State's Attorney, Montgomery County State's Attorney
	Catherine Meyers, Executive Director, Center for Children, Inc. Child Advocacy Center Representative

I. SPECIALIZED SEXUAL OFFENDER TREATMENT

Introduction

Individuals who commit sexual offenses often have a variety of behavioral disturbances. Many have a personality disorder, often antisocial personality disorder[1]. Others may be diagnosed with a sexual disorder, or paraphilia[2]. Some have both, while others have none. All sexual offenders are candidates for initial behavioral management. A subset may benefit from mental health services as well.

Specialized treatment is an important part of a comprehensive model of sex offender management. The ultimate goal of treatment is to motivate and enable the individual who has sexually offended to develop the ability to self-regulate his or her behavior and by doing so to increase public safety. Collaboration among treatment providers, parole and probation agents, polygraph examiners, family members and victim advocates is of prime importance to the successful treatment and supervision of individuals who have committed sexual offenses.

Whether sexual offender treatment works continues to be the subject of debate. A review of the research on the topic finds two consistent results: treatment significantly reduces recidivism, on average by approximately 30%, and best practice treatments significantly outperform treatments that are not informed by best practices. A large meta-analysis done by Hanson, et al. (2002)[3] found a 12.3% reoffense rate for those who

[1] Personality Disorders are defined by an individual's maladaptive behaviors that differ from societal norms and expectations; and these behavioral patterns are typically associated with severe disturbances in cognition, emotional arousal and response, impulse control, and ability to relate or empathize with others such as Antisocial Personality Disorder. Personality disorders are noted on Axis II in the DSM-IV-TR (text revision, 2000) of the American Psychiatric Association.

[2] Paraphilia is a medical or behavioral science term for what is also referred to as: sexual deviation, sexual anomaly, sexual perversion or a disorder of sexual preference such as pedophilia. It is the repeated, intense sexual arousal to unconventional (socially deviant) stimuli. Paraphilias are currently recognized as one of the categories of Axis I Sexual and Gender Identity Disorders in the DSM-IV-TR (Diagnostic and Statistical Manual of Mental Disorders – text revision, 2000) of the American Psychiatric Association.

[3] Hanson, R. K., Gordon, A., Harris, A. J. R., Marques, J. K., Murphy, W., Quinsey, V. L., & Seto, M. C. (2002). First report of the Collaborative Outcome Data Project on the effectiveness of psychological treatment of sex offenders. Sexual Abuse: A Journal of Research and Treatment, 14, 169-194.

received "any treatment," a 9.9% rate for those who received "current treatments," and a 17.4% rate for those who received no treatment. These findings are consistent with those of Losel and Schmucker (2005)[4] (11.1% versus 17.5%). More recently, Hanson et al. (2009)[5] found a 10.9% reoffense rate for those who received treatment versus a 19.2% rate for those who did not, and more notably, found that programs that used the Risk-Need-Responsivity (RNR)[6] best practice approach showed the greatest reductions in recidivism (and that reductions in recidivism increased in direct proportion to the degree a program implemented all aspects of the RNR approach).

The "risk" principle says that the greatest resources and efforts should be directed toward those individuals with the highest risk of reoffending. The "need" principle holds that the focus of intervention should be on the characteristics of the offender shown to be associated with the greatest propensity to reoffend and that have the greatest potential to be changed. The "responsivity" principle states that interventions must be delivered in ways that best match the learning capacities of the offenders. That is, in addition to assessments of "risk," successful sex offender management approaches must include an assessment of offender "needs" and the identification of strategies that can maximize an offender's "responsivity" to behavior change. Sex offender treatment professionals contribute importantly to this process. Accordingly, treatment improves public safety, and best practice treatments maximize that benefit.

A Summary of Maryland's Current Policies and Procedures

In Maryland, other than licensure by one of the Professional Boards (e.g. Board of Social Work Examiners, Board of Examiners of Psychologists), there is currently no special certification process for mental health providers who seek to treat individuals who have

[4] Lösel, F., & Schmucker, M. (2005). The effectiveness of treatment for sexual offenders: A comprehensive meta-analysis. Journal of Experimental Criminology, 1, 117-146.

[5] Hanson, R.K., Bourgon, G., Helmus, L., & Hodgson, S. A meta-analysis of the effectiveness of treatment for sexual offenders: Risk, Need, and Responsivity (2009-01). Public Safety Canada.

[6] Andrews, D.A. & Bonta, J. (2010). The psychology of criminal conduct (5th Edition). Cincinnati OH: Anderson Publishing

committed sexual offenses.

DPSCS Community Supervision (formerly known as the Maryland Division of Parole and Probation) has established minimum criteria that mental health professionals must meet to be eligible for contracts to treat individuals convicted of a sexual offense who are under the agency's supervision. Currently, there are approximately three hundred and fifty (350) adults who have committed sexual offenses receiving specialized treatment from the four providers with whom the DPSCS Community Supervision contracts. Other individuals who have committed sexual offenses receive treatment from providers with whom the DPSCS Community Supervision has no formal relationship. DPSCS Community Supervision's criteria were reviewed by the Sexual Offender Advisory Board's (SOAB) Assessment and Treatment Subcommittee and determined to represent national best practices.

Likewise the Maryland Department of Juvenile Services (DJS) has outlined recommended qualifications for those providing direct services to youth who have offended sexually. Since the fall of 2003, the Maryland DJS has had a Sex Offender Task Force (SOTF) which started informally and evolved into a DJS sanctioned task force in 2005. The Task Force worked to promote best practices among clinicians and case managers who work with children and adolescents, with the understanding that children and adolescents with sexual behavior problems are very different than adults. Children and adolescents with sexual behavior problems represent a broad spectrum that includes youth with developmental delays or disabilities and youth with mental health treatment needs. Most children and adolescents who receive treatment do not go on to become sexual offenders. The Task Force generated two reports[7] and each report contained specific recommendations regarding ways to improve services for youth who have sexually offended. The Task Force, in collaboration with national experts, developed specific credentialing criteria for sex offender treatment providers in order to ensure that any clinician working with youth who have offended sexually is highly skilled and

[7] Maryland Department of Juvenile Services Task Force Report on Juvenile Sex Offenders, June 2, 2005 and October 2007.

knowledgeable about this population. The Task Force's Training Committee worked to create and support quality training. This included a partnership with the Behavioral Health Leadership Institute resulting in the development of a training program for service providers and specialized DJS case managers. The training program included a yearly conference and a year-long mentoring component for service providers. The intent of the program was to train existing providers and DJS case managers as well as to increase the pool of available service providers. The program remained active until funding was no longer available. As of October 2011 there were three hundred and thirty-seven (337) youth who committed sexual offenses receiving treatment and supervision under the auspices of the DJS. There are eight residential and sixteen nonresidential providers who currently render services to those youths.

Practices in Other States for Certifying or Qualifying Providers

In response to the Legislature's request that the Board develop a process for certification of providers working with individuals who have committed sexual offenses, the Board compiled an overview of the relevant practices in place in other states. As was reported in 2010, the review indicated that several states have some type of mandated oversight of providers or are in the process of creating a method of oversight. In other states, as in Maryland, specifications for providers are delineated in contracts for services put forth by various state agencies. By way of summary, the following information presents some of the practices used in other states for certifying or qualifying providers. The list is meant to be illustrative as opposed to exhaustive; readers are cautioned that changes may have been made since the Board's review.

Alaska Administrative Code Title 22, Chapter 30, establishes the Sex Offender Treatment Committee under the Department of Corrections. An individual who wishes to provide sex offender treatment to a sex offender who is under the department's jurisdiction first must obtain, and then maintain, approval from the department under this chapter in order for the treated sex offender to be considered in compliance with a sex offender treatment requirement imposed by the court, the parole board, or the department. Department approval of such a provider is required regardless of who pays for the sex offender's

treatment and regardless of whether the treatment takes place in a correctional facility or is community-based.

California California Penal Code Section 9003 (a), which states that on or before July 1, 2011, The California Sex Offender Management Board shall develop and update standards for the certification of sex offender management professionals. All those professionals who provide sex offender management programs and risk assessments, pursuant to Section 290.09, shall be certified by the board according to these standards. The standards shall be published on the board's Internet Web site. Professionals may apply to the Board for certification on or after August 1, 2011. The California Penal Code also states that all sex offender treatment providers and programs wishing to contract with state agencies must be certified by the Board not later than July 1, 2012.

Colorado In 1992, the Colorado General Assembly passed legislation (Section 16-11.7-101 through Section 16-11.7-107 C.R.S.) which created a Sex Offender Management Board to develop standards for the assessment, evaluation, treatment and behavioral monitoring of adult sex offenders. State statute (Section 16-11.7-107 C.R.S.) prohibits the Department of Corrections, the Judicial Department, the Division of Criminal Justice of the Department of Public Safety, or the Department of Human Services from employing or contracting with, or allowing a convicted sex offender to employ or contract with providers unless they meet these standards. The Standards and Guidelines for Assessment, Evaluation, Treatment, and Behavioral Monitoring of Adult Sex Offenders were created in 1996. In 2002, Colorado published The Standards and Guidelines for the Evaluation, Assessment, Treatment and Supervision of Juveniles Who Have Committed Sexual Offenses. These continue to be revised at regular intervals.

Idaho Effective July 1, 2011, the Sexual Offender Classification Board has been replaced by a new Sexual Offender Management Board. This change was brought about through SB1154a during Idaho's 2011 legislative session. In addition to maintaining responsibility for setting pre-sentence sexual offender evaluation standards and psychosexual evaluator certification, the new board is charged with setting standards for sexual offender treatment, and certification of treatment providers and polygraphers who conduct

polygraphs on sexual offenders. Standards set by the SOMB will apply to adult and juvenile sexual offenders**.**

Illinois Administrative Code Title 20, Chapter VII, Part 1900 creates a Sexual Offender Management Board (SOMB) under the auspices of the Attorney General's Office. Providers are approved via application to the SOMB.

Kentucky Statutes KRS 17.564; 501 KAR 6:220 established a Sex Offender Risk Assessment Advisory Board. The Board designates "approved providers" based on adherence to a set of treatment standards contained in the statute.

Oregon ORS 675.375 (Certification of clinical sex offender therapist or associate sex offender therapist) establishes the titles certified clinical sex offender therapist and certified associate sex offender therapist. This does not prohibit others from providing services to treat sex offenders. However, only those certified under ORS 675.36 to 675.410 shall represent the designated titles to the public. Adult and juvenile parole and probation authorities and the Oregon Health Authority may restrict their referrals to those providers who are certified.

Pennsylvania In 1995, the Pennsylvania Legislature passed Act 42 (42 Ps. C.S.A., Subchapter H, as amended) creating the Sexual Offenders Assessment Board (SOAB). Among its duties, this Board has been charged with the responsibility for the development of standards for the evaluation, treatment and monitoring of persons found by the courts to be sexually violent predators. State law also requires that Sexually Violent Predators attend at least monthly counseling sessions in a program approved by the SOAB. The Board designates approved treatment providers for sexually violent predators based on adherence to a set of published treatment standards. The Board maintains a Sex Offender Treatment Provider Listing which is available via its website. The SOAB created Sexually Violent Predator Treatment and Management Standards to provide a basis for the systematic assessment, treatment and management of sexually violent predators, by requiring best practice, sex-offender specific assessment and treatment interventions that are integrated into and coordinated with the offender supervision provided by probation and parole, correctional and other criminal justice authorities. The primary goals of these

standards are the enhancement of public safety and victim protection. State law requires that the SOAB be comprised of psychiatrists, psychologists, and criminal justice professionals, who are experts in the evaluation and treatment of sexual offenders. The SOAB members are appointed to four-year terms by the Governor.

During the most recent reporting period, the SOAB had a total panel complement of seventy-six (76) members. The SOAB is administered by an Executive Director, and supported by an administrative staff and a team of investigators. The SOAB is housed under the Pennsylvania Board of Probation and Parole by statute for support services.

Tennessee Code Annotated Title 39, Chapter 13 established the Tennessee Sex Offender Treatment Board which maintains a list of approved providers. In 1995, the Tennessee General Assembly created the Sex Offender Treatment Board in the Department of Correction. The General Assembly declared, in TCA 39-13-702 (a), that the "...comprehensive evaluation, identification, treatment and continued monitoring of sex offenders who are subject to the supervision of the criminal justice system are necessary in order to work toward the elimination of recidivism of such offenders." Historically, the Board's work emphasized development of a statewide system of professionals specializing in sex offender treatment. The Board was also charged with these activities:

- Developing and prescribing a standardized procedure for the evaluation and identification of sex offenders
- Developing and implementing methods of intervention
- Developing guidelines and standards for a system of programs for the treatment of sex offenders placed on probation, incarcerated in the Department of Correction, placed on parole, or placed in community corrections.
- Researching and analyzing program effectiveness
- Developing and prescribing an offender tracking system
- Developing a system for monitoring offender behavior.

Texas Administrative Code Title 22, Part 36, Chapter 810, Subchapter A, Rule 810 established the Council on Sex Offender Treatment under the Texas Department of Health. Per rule, "a person shall not provide sex offender treatment or act as a sex offender treatment provider unless the person is licensed by the council. A person may not claim to be a sex offender treatment provider or use the title or an abbreviation that implies the person is a sex offender treatment provider unless the person is licensed under this chapter. The council shall maintain a list of licensees who meet the council's licensure criteria to assess and treat adult sex offenders and/or juveniles with sexual behavior problems."

Virginia Regulations established by The Virginia Board of Psychology (18 VAC 125-30-10) govern Certified Sex Offender Treatment Providers (CSOTP). "Certified sex offender treatment provider" means a person who is certified to provide treatment to sex offenders and who provides such services in accordance with state law. Virginia law states that "No person, including licensees of the Boards of Counseling; Medicine; Nursing; Psychology; or Social Work, shall claim to be a certified sex offender treatment provider unless he has been so certified. No person who is exempt from licensure under Virginia Law shall hold himself out as a provider of sex offender treatment services unless he is certified as a sex offender treatment provider by the Board of Psychology."

Washington According to state law, no person shall represent himself or herself as a "certified sex offender treatment provider" or "certified affiliate sex offender treatment provider" without first applying for and receiving a certificate pursuant to (RCW 18.155.030). Per RCW 18.155.070 a certificate shall be issued to any applicant who has successfully completed an educational program or alternate training approved by the Secretary of Health, who meets the experience requirement established by the Secretary, and who meets other requirements as may be established by the Secretary that impact the competence of the sex offender treatment provider. Providers must pass an examination administered or approved by the Secretary. Currently, applicants must pass (90% or better) a written exam that has 150 questions regarding assessment, evaluation, treatment, monitoring, theory, research, standards of practice, ethics, victimology, and jurisprudence issues.

In addition an applicant must not:

- have engaged in unprofessional conduct or be unable to practice with reasonable skill and safety as a result of a physical or mental impairment; or
- have been convicted of a sex offense, as defined in RCW 9.94A.030 or convicted in any other jurisdiction of an offense that under the laws of this state would be classified as a sex offense as defined in RCW 9.94A.030.

Only a certified sex offender treatment provider, or certified affiliate sex offender treatment provider who has completed at least fifty percent of the required hours under the supervision of a certified sex offender treatment provider, may perform or provide the following services:

- Evaluations conducted for the purposes of and pursuant to RCW 9.94A.670 and 13.40.160;
- Evaluations of convicted level III sex offenders who are sentenced and ordered into treatment pursuant to chapter 9.94A RCW and adjudicated level III juvenile sex offenders who are ordered into treatment pursuant to chapter 13.40 RCW;
- Treatment of sexually violent predators who are conditionally released to a less restrictive alternative pursuant to chapter 71.09 RCW.

Certified sex offender treatment providers and certified affiliate sex offender treatment providers may provide treatment of convicted level I and level II sex offenders who are sentenced and ordered into treatment pursuant to chapter 9.94A RCW and adjudicated juvenile level I and level II sex offenders who are sentenced and ordered into treatment pursuant to chapter 13.40 RCW.

Discussion and Recommendations

The Board recommends that the fundamental principles of offender rehabilitation (Risk-Need-Responsivity) guide Maryland's sex offender management strategies and that Maryland focus on approaches that demonstrate success and recognize the importance of

qualified, trained professionals working collaboratively. Mental health professionals who provide treatment services for individuals who have committed sexual offenses need specialized training, education and experience.

The Board discussed the pros and cons of implementing a different process for monitoring, training and approving providers rendering services to individuals who have committed sexual offenses who are under auspices of a state agency and/or the courts. The overarching concern is that taxpayers and community members at large be assured that individuals who have committed sexual offenses receive optimal services in order to enhance public safety. However it is recognized that enhanced regulation that is too onerous could potentially limit access to services and increase the cost of services. The Board considered several different levels of potential oversight including licensure, certification and registration[8]. Each level has its strengths and weakness.

Licensure is the most restrictive form of regulation, yet it provides the greatest level of public protection. Licensure requires the completion of a prescribed educational program and the passage of an examination that is designed to measure a minimal level of competency. Typically only those individuals who are properly licensed may use a particular title(s) and engage in a particular practice. Said requirements can be barriers to entry but also afford the highest level of consumer protection in that they ensure that only those who are deemed competent may practice. The public is alerted to those who may practice by the title used.

Certification offers a level of consumer protection similar to licensure but the barriers to entry are generally lower. The required educational program may be more vocational in nature and an examination may or may not be required. Certification programs may involve a non-governmental entity that establishes training requirements and administers an examination. Certification also usually entails title protection and practice exclusivity.

[8] State of Colorado Department of Regulatory Agencies. Office of Policy, Research and Regulatory Reform 2009 Sunset Review: Sex Offender Management Board, October 15, 2009

Registration (or the creation of an approved listing) can serve to protect the public with minimal barriers to entry. Typically, registration requires individuals to satisfy certain requirements often via the use of a disclosure form and they, in turn, are placed on the pertinent registry or list. Registration can entail title protection and practice exclusivity and thus serves to notify the public of which individuals are engaging in the relevant practice. Barriers to entry in registration are relatively low.

The Board concluded that developing a registration process would serve to protect public safety with the least cost and administrative burden. The Board is particularly concerned that a more stringent level of oversight could potentially limit services in general, and particularly in rural areas of the state where service providers are often already at a minimum. Previous efforts to create such a registry resulted in "The Sex Offender Treatment Provider Directory For Maryland" which was completed in the summer of 2003 under the auspices of The Attorney General's and Lt. Governor's Family Violence Council in coordination with The Division of Parole and Probation and the Department of Health and Mental Hygiene. The providers listed in the directory voluntarily completed questionnaires regarding their educational background, training and experience, and affiliations in professional organizations and voluntarily agreed that their information could be included in the directory. This information was not verified by any entity and providers were not required to sign attestations of any kind. The Directory was created to serve as an information resource so that users could make informed decisions about where to refer sex offenders. This informational resource was not updated after initial publication.

The Board's Assessment and Treatment Subcommittee reviewed the criteria for approving providers established by DPSCS Community Supervision (formerly the Maryland Division of Parole and Probation) and the Maryland Department of Juvenile Services (DJS), as well as, the criteria in place in several other states. The reviewed criteria were used as a baseline for the creation of a proposed framework for the approval and training of sex offender treatment providers statewide. The Board recommends the establishment of an Office of Professional Services to oversee the implementation of best practices in the evaluation and treatment of individuals who have committed sexual offenses, which would

include the creation of an approved provider list.

As proposed, the Office of Professional Services (OPS) would be overseen by a Director who would also serve as permanent staff to the Sexual Offender Advisory Board. The OPS would consist of two Units, the Clinical Evaluation & Credentialing Unit and the Training, Grants & Program Evaluation Unit.

The Clinical Evaluation & Credentialing Unit would ideally be headed by a licensed mental health professional with experience in the evaluation and treatment of individuals who have committed sexual offenders as well as in the coordination of services for the sexual offender population within the Department of Public Safety and Correctional Services. The responsibilities of the Clinical Evaluation & Credentialing Unit would include:

- Creating and Maintaining an Approved Provider List: The OPS would maintain a list of licensed professionals who meet the education and experience qualifications required by the OPS. Interested providers would apply to be placed on the Approved Provider List (APL). The Board proposes that the education and experience qualifications, noted in Chart A, initially serve as the minimally necessary requirements for placement on the Approved Provider List (see Section 2 of this report for a full description of the requirements):

- Ongoing collaboration with professional organizations, state agencies and others to establish professional standards for the treatment and evaluation of adults and juveniles and to assure that services provided upon court order or under the auspices of any state agency reflect these standards:

- Monitoring Providers to ensure adherence to the standards for treatment and evaluation developed by the OPS. Such would include randomly auditing providers. Providers would be removed from the APL for substantial noncompliance (but would be given the opportunity to remediate deficiencies if appropriate). If a provider is believed to be in to be in potential violation of Licensing Regulations, a complaint would be forwarded to the appropriate licensing Board for review and appropriate action:

- Monitoring Providers to ensure adherence to continuing education requirements. To qualify for a two year renewal period providers would be required to submit proof of having completed continuing education in the areas outlined in the requirements:
- Creating and Maintaining a Training System in order to provide continued education for those monitoring, assessing and treating individuals who have committed sexual offenses:
- Developing a system for tracking the delivery of treatment and evaluation services by region and agency in order to determine the extent of needs within the state. The OPS would collaborate with the appropriate agencies to track treatment outcomes and assess program effectiveness.

The responsibilities of the Training, Grants & Program Evaluation Unit would include:

- Planning and providing at least semi-annual trainings by local and national experts at minimal or no cost to statewide licensed mental health professionals:
- Applying for and administering training grants and any relevant legislative appropriations:
- Collaborating with the state's mental health professional organizations and other relevant organizations to sponsor in-service training and continuing education workshops:
- Serving as an informational resource for academic institutions regarding standards of practice and treatment components for sex offender programs.

While the Board understands that the funds necessary to establish the Sexual Offender Advisory Board's Office of Professional Standards (OPS) may be limited, it is convinced that the OPS would not only enhance the State's efforts to reduce sexual offending by known sexual offenders, but it would also promote primary prevention efforts focused on reducing the number of future sexual offenders. Five positions are needed to create a fully functioning office. The office needs one program manager, one psychologist, two administrators, and one clerical support position. The Board estimates a cost of 350,000 to 400,000 dollars to pay salaries and equipment costs.

The Board, with the assistance of the Department of Health and Mental Hygiene licensing boards, conducted a survey between November 2011 and June 2012. The purpose of the survey was to identify practitioners currently working with patients who have sexual disorders and dysfunctions, or who have been identified as a sex offender in need of treatment. The goal of the survey was twofold: to clarify the current availability of treatment services throughout the state, and to determine the level of training and experience of those treatment providers. The survey was available for completion by all licensed mental health professionals. Participation in the survey was voluntary and unrelated to maintenance of licensure or certification.

The survey instrument asked questions about the providers' level of education, professional subspecialty training (if any), and hours of training and experience obtained in the evaluation and treatment of sexual offenders. The respondents received a list of content areas related to sex offender evaluation and treatment and were asked to identify any areas in which they may require additional training. Finally, respondents were invited to participate in additional surveys and a focus group to learn more about the prevention and treatment of sexual offending. To improve response rate, the duration of the survey was extended an additional four months and boards were reminded to re-distribute the link to the web-based survey.

Conservatively, there are several thousand licensed psychologists, psychiatrists, nurse practitioners, licensed clinical social workers and licensed professional counselors in Maryland. The exact number of actively practicing clinicians is difficult to determine given that there are many purely academic, administrative or research oriented practitioners who may maintain an active license without providing clinical services. Nevertheless, the most noteworthy finding of the board's survey was that only 146 licensed mental health professionals responded. Of these, 60% were psychologists, 21% were psychiatrists and 16% were licensed clinical social workers. No nurses responded. Three percent of respondents declined to identify their profession. Only six percent had training in forensic psychiatry or psychology. The majority of respondents (72%) had been in practice for over fifteen years. However, half reported having less than the 100 hours of experience in the evaluation and treatment of sexual disorders, dysfunctions, paraphilias or problematic

sexual behavior. Only 24% reported over 500 hours of experience in these areas. Similarly, half the respondents reported 20 hours or less of training in the evaluation and treatment of sex-related problems.

The results of this survey illustrate the dearth of trained and experienced treatment providers in this state. Additionally, half of these practitioners would not meet minimum draft criteria to be considered an associate sex offender treatment provider. The Board will continue to seek input from licensed mental health professionals, members of Department of Health and Mental Hygiene licensing boards, and as other key stakeholders regarding the proposed requirements for placement on the Approved Provider List.

II. PROPOSED REQUIREMENTS FOR APPROVED SEXUAL OFFENDER TREATMENT PROVIDER STATUS

Introduction

In 2006 the Maryland General Assembly Charge to the Sexual Offender Advisory Board to develop a Certification for Specialized Sex Offender Treatment Providers.

The Annotated Code of Maryland Public Safety Article, §1-404(g)(6) states, "The Board shall develop standards for the certification of sexual offender treatment providers based on current and evolving evidence-based practices and make recommendations for a statewide certification process".

Specialized treatment – with the ultimate goal of increasing public safety by motivating and enabling individuals who sexually offend to develop the ability to self-regulate their behavior – is an essential component of a comprehensive model of sexual offender management. The Maryland Sexual Offender Advisory Board's Office of Professional Services recognizes that mental health professionals who provide treatment services for individuals who have committed sexual offenses need specialized training, education and experience. The Board further recognizes that even within the broad category of sexual offender treatment, the evaluation and treatment of adult sexual offenders differs significantly from services provided to juveniles who have sexual behavior problems. A competent therapist working with either group will have acquired specialized knowledge and will have developed specialized techniques that are based on empirical evidence. Maintaining and demonstrating evidence of one's scope of practice and competence in working with individuals who have committed sexual offenses is an essential professional responsibility.

Therefore, the requirements and procedures presented here are designed to ensure that all individuals who have committed sexual offenses or exhibited sexual behavior problems receive services from appropriately trained and experienced treatment providers. The criteria presented herein are primarily for those mental health professionals who provide sexual-offense specific evaluation and treatment services to

individuals who have committed sexual offenses and who are under the jurisdiction or supervision of the Department of Health and Mental Hygiene, the Department of Juvenile Services, or the Department of Public Safety and Correctional Services. Practitioners who fulfill these requirements (which are subject to revision by the Office of Professional Services) are eligible to become "Approved Providers" for those individuals. Inclusion on the Approved Provider List means that a provider (1) has met the education and experience requirements established by the MDSOAB's Office of Professional Services (OPS), and (2) has agreed in writing to comply with the standards of practice outlined by the OPS. Placement on the Approved Provider List does not represent either licensure or certification of the practitioner, nor does it constitute or replace the process of approval of such programs employed by any state agency. It does not imply that all practitioners listed offer the same services. While inclusion on the Approved Provider List does not create an entitlement for referrals, it is the recommendation and expectation of the Maryland Sexual Offender Advisory Board that state agencies (e.g., the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Department of Public Safety and Correctional Services) will refrain from employing or contracting with, or allowing an individual convicted of or adjudicated for a sexual offense to employ or contract with sexual-offense specific treatment providers unless they are on the Approved Provider List.

Definitions

Evaluation: Refers to a sexual offense-specific evaluation or assessment of an individual who has committed a sexual offense that is comprised of at least a clinical interview and the use of a tool or tools designed to assess the risk of sexual recidivism and/or treatment progress. Such an evaluation may be conducted for a variety of purposes including but not limited to: sentencing and institutional release determinations, intake, treatment planning, and ongoing management decisions.

MDSOAB: Acronym for the Maryland Sexual Offender Advisory Board. It is used interchangeably with the expression "the Board."

OPS: Acronym for the Maryland Sexual Offender Advisory Board's Office of Professional

Services. It is used interchangeably with the expression "the Office."

Provider: Refers to an individual who offers or wishes to offer specialized assessment and treatment services as described in this document. "Provider" is used interchangeably with the term "practitioner".

Supervision: Refers in this document to formal oversight provided to treatment professionals as delineated in the following sections. Supervision provided to comply with these approval requirements may or may not be coextensive, in any particular case, with the hours of supervision required for other purposes. In other words, the various types of supervision requirements (e.g., licensure, approval, agency-specific) may or may not be met by the supervision provided by the same supervisor in the same supervision hour.

Training: Refers to formal continuing education experiences such as those provided in academic settings, at professional conferences or through formalized, advertised training events. To be acceptable as training for purposes of approval, an educational experience must be planned, scheduled prior to its occurrence, announced in written form, and have some form of written outline demonstrating internal structure. It must be focused on one or more of the content areas listed in this document and must be presented or led by one or more persons who have the needed expertise to present the content material. It is not necessary that it be continuing education (CE) credit approved.

Part One: Requirements for Approval Applicable To All Treatment Providers

The following requirements apply to all individuals seeking approval or renewal of approval at either the Independent or Associate Provider level.

A. Training Requirements for Initial Approval

Training must directly relate to sexual offender evaluation, treatment, and management and may include but is not limited to the topics listed on the Approved Training Topics List. It is the intent of the Office of Professional Services to establish a professional but not unreasonable standard for identifying experiences that should be allowable as training for the purposes of inclusion on the Approved Provider List. The

required training includes formal continuing education experiences such as those provided in academic settings, at professional conferences, or through formalized, advertised training events. Training may also include less formal educational experiences such as meetings or events that are planned and structured, agency staff trainings, structured meetings of organizations, and mini-conferences of various types. Online offerings may be included, however no more than 50% of accrued training may be obtained through online programming. The following are offered as examples of the types of training experiences that would be considered acceptable for approval purposes:

- Formal trainings, conference presentations, or similar experiences which clearly qualify as continuing education for license renewal purposes:
- Online continuing education experiences which provide appropriate documentation:
- Educational experiences offered by recognized professional organizations (e.g., the Maryland Psychiatric Association, the Maryland Psychological Association, the Association for the Treatment of Sexual Abusers):
- Intra-agency staff trainings that are announced, planned, and structured:
- Hours spent in providing presentations regarding sexual offender evaluation, treatment, or management may be counted as training hours for the presenter for a presentation conducted for the first time.

The following are offered as examples of the types of training experiences that would <u>not</u> be considered acceptable for approval purposes:

- Consultations or conversations with experts:
- Non-formalized self-study such as reading a journal article or a book:
- Providing presentations to non-professionals, such as community groups:
- Reading or participating in list-serves, and blogs – even when the content is highly relevant:

- Supervision sessions, whether given or received:
- Case conferences, COMET meetings, and similar events – unless organized as a formal training experience.

Applicants are not required to submit documentation of their individual training experiences as a required part of the process of seeking initial approval. However, applicants must sign attestation forms under penalty of perjury, indicating that they have accumulated the required amount of training and that they are able to document the satisfaction of this requirement if such verification is requested.

B. Experience Requirements for Initial Approval

Specialized experience providing services for individuals who have committed sexual offenses is required for initial approval of treatment providers. The specific experience can be obtained in a variety of settings, including institutional settings, residential treatment settings, and community-based outpatient settings. This experience can have been obtained by working with registered or non-registered individuals who have committed sexual offenses in or out of the state of Maryland. If seeking approval as a provider for adult individuals who have committed sexual offenses, at least 50% of a provider's experience must have been obtained through working with adult individuals who have committed sexual offenses. If seeking approval as a provider for juveniles who have engaged in problem sexual behavior, at least 50% of a provider's experience must have been obtained through working with juveniles who have engaged in problem sexual behavior. Applicants are not required to submit documentation of their experience as a required part of the process of seeking initial approval. However, applicants must sign attestation forms under penalty of perjury, indicating that they have accumulated the required amount of experience and that they are able to document the satisfaction of this requirement if such verification is requested.

C. Licensure Requirements for Initial Approval

Any practitioner providing services as an Approved Provider at any level must have

and maintain a status that authorizes that individual to provide mental health services in Maryland or in the jurisdiction where such services are offered. Such authority may be established through a license for independent practice, or through formal status as a registered Intern, a Psychology Associate, or some similar arrangement. In some cases, authorization will be associated with participation in the training program of an academic institution. Applicants are required to submit a copy of any relevant license or certification as part of the process of initial approval.

D. Criminal Record Check

Applicants must submit to a criminal record check. This will be accomplished through the submission by the applicant of fingerprint data, unless such data was previously submitted to the applicant's licensing body or another official entity within the State of Maryland. Applicants will be required to pay any costs associated with this process. Applicants may be denied placement on the Approved Provider List on the basis of the policies outlined by the Office of Professional Services relative to an applicant's criminal record.

E. Fees

Applicants must pay any required application or renewal fees. Movement from Associate Provider level to Independent Provider level will be processed at no additional fee, but the original renewal date will remain the same.

F. Continued Placement on Approved Provider List

Approval as a sexual-offense specific treatment provider, both for initial approval and for renewals, will be for a period of two (2) years. Approved providers must apply for continued placement on the Approved Provider List every two (2) years by the date provided by the Office of Professional Services. The Office of Professional Services will make reasonable efforts to provide advance notice of each approved provider's renewal date, but the final responsibility for tracking such renewals will remain with the provider. Providers seeking renewal of approval must demonstrate compliance with the approval

renewal criteria. All approved providers must agree to random auditing by the Office of Professional Services. At the time of an audit, a provider will be required to submit two (2) samples of work product (e.g., reports, termination summaries) for review by a committee established for this purpose within the OPS. Providers may be removed from the Approved Provider List for substantial noncompliance with established standards. While providers will be given the opportunity to remediate concerns when appropriate, if the conduct in question is in potential violation of already established licensing regulations the complaint will be forwarded to the appropriate licensing board. The Office of Professional Services will not hear or adjudicate complaints involving potential violations of licensing regulations.

G. Code of Ethics

An approved provider must provide all services in a manner that is consistent with the reasonably accepted standard of practice in the sexual offender provider community and according to his or her respective professional standards. The provider shall adhere to all laws, regulations and accepted standards and practices governing service delivery.

H. Letters of Reference

While there is no *general* requirement that applicants submit letters of reference as part of the process of applying for inclusion on the Approved Provider List, the Office of Professional Services may, on a case-by-case basis, require that an applicant submit letters of reference or verification addressing relevant aspects of the applicant's professional background or performance.

I. Malpractice Insurance

Professional malpractice insurance coverage is not required for approval but is strongly recommended.

J. Revocation, Denial, or Non-Renewal of Approval

Failure to comply with the requirements for approval or renewal may result in

removal from the Approved Provider List. The Office of Professional Services may refuse to accept an application for approval, refuse to renew approval, or revoke approval upon verification that a practitioner, whether an approved Independent Provider or Associate Provider has incurred one or more of the following:

A conviction for any felony or a misdemeanor involving a sexual or violent offense:

The revocation, cancellation, suspension, non-renewal or de-activation of state licensure, or the placement on probation of the practitioner by any state licensing body. Whether licensed, pre-licensed, or in a training program, the provider must be in good standing with the appropriate licensing body or training program and must report any change in status to the Office of Professional Services as soon as he or she becomes aware of it:

A determination by the Office of Professional Services that the practitioner has engaged in deceit or fraud in connection with the delivery of services, supervision, or documentation relative to the satisfaction of Approved Provider List eligibility requirements:

A determination by the Office of Professional Services that the practitioner, in any other way, does not meet the criteria for approval.

K. Appeal Process

Determinations made by the Office with regard to approval may be appealed by the affected practitioner to a panel established for this purpose by the Maryland Sexual Offender Advisory Board.

L. Special Cases and Exceptions

The Office may consider factors other than those delineated here in making its determination as to whether to grant or renew approved provider status.

Part Two: Requirements for Approval as an Independent Provider

The following requirements apply to all individuals seeking inclusion on the

Approved Provider List at the Independent Provider level. Independent Provider status identifies practitioners recognized as fully qualified to provide, without supervision, evaluation and treatment services for individuals who have committed sexual offenses. An Independent Provider's competence to provide any specific type of service is, of course, governed by all of the standards and regulations of his or her state mental health provider licensure and by the relevant professional Code of Ethics.

A. Services That May Be Provided By an Approved Independent Provider

A practitioner approved at the Independent Provider level may practice independently and may provide, without supervision, evaluation, treatment and related services for individuals who have committed sexual offenses.

An approved Independent Provider may supervise individuals at the Associate Provider level who require such supervision in order to meet approval criteria. Generally, an Approved Provider may supervise no more than five (5) supervisees regardless of the number of programs in which the Independent Provider is providing supervision. In special cases, however, on the basis of geographic or other considerations, the Office of Professional Services may grant exceptions to this standard.

An Independent Provider providing supervision to an Associate Provider is not required to be on site if the supervisee is licensed or is working under the appropriate supervision of some other licensed mental health provider in accordance with state licensing laws and regulations. The supervision provided under these criteria may be the same as, and may overlap with, any supervision required for licensure or to meet the requirements of a training program. On the other hand, the supervision provided under these criteria may be completely independent of any supervision required and provided for licensure, training, or any other purposes.

B. Requirements for Initial Approval of an Independent Provider

To qualify to provide sexual offender treatment at the Independent Provider level, an individual must demonstrate that he or she meets all of the following criteria:

EDUCATION: An Independent Provider must have completed all of the educational requirements necessary to obtain licensure.

LICENSURE: An Independent Provider must have attained and must maintain a current license, issued by a licensing board of the State of Maryland, authorizing him or her to practice independently within the mental health field. If the practitioner is treating a client outside of the state of Maryland, he or she must maintain an equivalent license issued by the jurisdiction in which the services are provided.

EXPERIENCE: An Independent Provider must have completed, within the five (5) years prior to initial approval, a minimum of one thousand (1,000) hours of clinical experience specifically in the treatment of individuals who have committed sexual offenses and/or at least forty (40) sexual offense-specific evaluations of individuals who have committed sexual offenses. At least half of these hours must have involved direct face-to-face contact with individuals who have committed sexual offenses. This experience may have been obtained while functioning either as an independently licensed mental health professional or while working under pre-licensure supervision. Practitioners who provide clinical supervision for therapists who evaluate and/or treat individuals who have committed sexual offenses may count hours of supervision directly related to such services towards this experience requirement.

The Office of Professional Services recognizes that a number of clinicians in current practice have accumulated substantial direct client experience over a period greater than five (5) years. Therefore, applicants who (1) meet a lifetime experience threshold of at least two thousand (2,000) hours of direct treatment and evaluation services provided to individuals who have committed sexual offenses, and (2) continue to maintain professional involvement in the field will be allowed to submit this lifetime experience in lieu of the one thousand (1,000) hours of experience obtained within the last five (5) years.

The Office of Professional Services may require verification that the applicant's current involvement in the field is substantially relevant to the evaluation, treatment and

management of individuals who have committed sexual offenses.

The Independent Provider will be required to sign an attestation under penalty of perjury that the experience requirement has been fulfilled.

TRAINING: An Independent Provider must have accumulated, within the five (5) years prior to initial approval, a minimum of sixty (60) documented training hours related to the evaluation, treatment, and management of individuals who have committed sexual offenses. These training hours must be related to topics included on the Approved Training Topics list (Appendix A). The Independent Provider will be required to sign an attestation under penalty of perjury that this training requirement has been fulfilled.

SUPERVISION: No additional supervision requirements are imposed upon an Independent Provider. The standard expectations for any mental health professional with respect to seeking consultation and supervision as needed are applicable.

C. Requirements for Renewal of Approval for an Independent Provider

An Approved Independent Provider will remain on the Approved Provider list, unless explicitly removed for cause, for a period of two (2) years. The initial listing period may vary depending upon the renewal date determined by the Office of Professional Services but will not be less than two (2) years. To renew his or her approval status, an Independent Provider must take the following actions and/or meet the following criteria and submit – prior to the expiration of his or her approval status – documentation that these requirements have been met.

EXPERIENCE: An Independent Provider shall attest under penalty of perjury that he or she has accumulated a minimum of two hundred (200) hours of clinical experience and/or conducted eight (8) evaluations of individuals who have committed sexual offenses over the course of the previous two (2) years. An Independent Provider who provides clinical supervision for therapists who are treating individuals who have committed sexual offenses may count hours of supervision toward this experience requirement.

TRAINING: An Independent Provider must submit documentation that he or she has completed a minimum of thirty (30) hours of continuing education/training over the course of the previous two (2) years. These training hours must be related to topics included on the Approved Training Topics list (Appendix A).

SUPERVISION: No supervision requirements are imposed upon an Independent Provider.

Part Three: Requirements for Approval as an Associate Provider

The Associate Provider status identifies practitioners who have not yet achieved the requisite levels of training and experience in the evaluation and/or treatment of individuals who have committed sexual offenses to earn approval as an Independent Provider, and practitioners who may be in the process of obtaining this experience and training but who are not yet licensed by the state to independently deliver mental health services.

An Associate Provider's competence to provide any specific type of service is, of course, governed by all of the standards and regulations of his or her state mental health provider licensure and by the relevant professional Code of Ethics.

A. Services Which May Be Provided By an Approved Associate Provider

A practitioner approved at the Associate Provider level may evaluate and treat individuals who have committed sexual offenses only while working under the supervision of an approved Independent Provider. Any written reports must be co-signed by the Associate Provider's supervisor(s).

An Independent Provider providing supervision to an Associate Provider is not required to be on site if the supervisee is licensed or is working under the appropriate supervision of some other licensed mental health provider in accordance with state licensing laws and regulations. The supervision required under these criteria may be the same as, and may overlap, such supervision as may be required for licensure or to meet the requirements of a training program. On the other hand, the supervision provided under

these criteria may be independent of supervision required for any other purposes. Therefore, the various types of supervision requirements may or may not be met by the same supervisor in the same supervision session.

B. Requirements for Initial Approval of an Associate Provider

To qualify to provide sexual offender treatment at the Associate Provider level, an individual must demonstrate that he or she meets all of the following criteria:

EDUCATION: An Associate Provider must have a Master's degree or above in a behavioral science area of study recognized by a Maryland licensing board or by the licensing jurisdiction in which the individual practices.

LICENSURE: An Associate Provider must have attained and must maintain a current license, issued by a licensing board of the State of Maryland, authorizing him or her to practice independently within the mental health field. If the practitioner is treating a client outside of the state of Maryland, he or she must maintain an equivalent license issued by the jurisdiction in which the services are provided; **or**

An Associate Provider must have the required status as a trainee, intern, Psychology Associate or the equivalent to be qualified and authorized to provide mental health services, under supervision, in Maryland and in any other jurisdiction in which such services are actually provided.

EXPERIENCE: There is no specific experience requirement for initial placement on the Approved Provider List in Associate Provider status, but practitioners who are listed as Associate Providers must agree to accumulate a minimum of eighty (80) hours of clinical experience with and/or conduct at least four (4) evaluations of individuals who have committed sexual offenses during each two (2) year period of inclusion on the Approved Provider List. These hours must be obtained while working under the supervision of an Independent Provider. At least half of these hours must involve face-to-face contact, either alone or as a co-therapist, with individuals who have committed sexual offenses. Co-therapy experience is strongly encouraged. The Associate Provider

and any Independent Provider(s) providing supervision to the Associate Provider during the period under review will be required to sign an attestation under penalty of perjury that this experience requirement is in the process of being fulfilled.

TRAINING: There is no specific training requirement for initial placement on the Approved Provider List in Associate Provider status, but practitioners who are listed as Associate Providers must agree to accumulate, during each two (2) year period of inclusion on the Approved Provider List, a minimum of thirty (30) hours of continuing education/training related to the evaluation, treatment, and management of individuals who have committed sexual offenses. These training hours must be related to topics included on the Approved Training Topics list.

SUPERVISION: Any services provided by an Associate Provider to individuals who have committed sexual offenses must be provided under the direct supervision of an approved Independent Provider. An Associate Provider must receive a minimum of one (1) hour of supervision for every twenty (20) hours of direct sexual offender services. The required supervision must be face-to face (may not include teleconferencing or videoconferencing formats unless pre-approved by the Office of Professional Services), and no more than 25% of the required supervision may be provided in a group format.

If the Associate Provider is not yet licensed, he or she must continue to receive supervision as required by the applicable state licensing authority or by his or her academic training program. The supervision required under these criteria may be the same as, and may overlap, such supervision as may be required for licensure or to meet the requirements of a training program. On the other hand, the supervision provided under these criteria may be independent of supervision required for any other purposes. Therefore, the various types of supervision requirements may or may not be met by the same supervisor in the same supervision session.

C. Requirements For Renewal Of Approval For An Associate Provider

An Associate Provider will remain on the Approved Provider list, unless explicitly removed for cause, for a period of two (2) years. The initial listing period may vary

depending upon the renewal date determined by the Office of Professional Services but will not be less than two (2) years.

To renew his or her approval status, an Associate Provider must take the following actions and/or meet the following criteria and submit – prior to the expiration of his or her approval status – documentation that these requirements have been met. There is no limit to the length of time an individual may remain in Associate Provider status, so long as the required renewals are completed as specified.

EXPERIENCE: An Associate Provider must accumulate a minimum of eighty (80) hours of clinical experience with and/or conduct at least four (4) evaluations of individuals who have committed sexual offenses during each two (2) year period of inclusion on the Approved Provider List. These hours must be obtained while working under the supervision of an Independent Provider. At least half of these hours must involve face-to-face contact, either alone or as a co-therapist, with individuals who have committed sexual offenses. Co-therapy experience is strongly encouraged.

The Associate Provider and any Independent Provider(s) who provided supervision to the Associate Provider during the period under review will be required to sign an attestation under penalty of perjury that this experience requirement has been fulfilled.

TRAINING: An Associate Provider must accumulate a minimum of thirty (30) hours of continuing education/training related to the evaluation, treatment, and management of individuals who have committed sexual offenses. These training hours must be related to topics included on the Approved Training Topics list (Appendix A).

The Associate Provider will be required to sign an attestation under penalty of perjury that this training requirement has been fulfilled.

SUPERVISION: An Associate Provider must receive a minimum of one (1) hour of supervision for every twenty (20) hours of direct sexual offender services. The required supervision must be face-to face (may not include teleconferencing or videoconferencing formats unless pre-approved by the Office of Professional Services),

and no more than 25% of the required supervision may be provided in a group format.

If the Associate Provider is not yet licensed, he or she must continue to receive supervision as required by the applicable state licensing authority or by his or her academic training program. The supervision required under these criteria may be the same as, and may overlap, such supervision as may be required for licensure or to meet the requirements of a training program. On the other hand, the supervision provided under these criteria may be independent of supervision required for any other purposes. Therefore, the various types of supervision requirements may or may not be met by the same supervisor in the same supervision session.

The Associate Provider and any Independent Providers who provided supervision to the Associate Provider during the period under review will be required to sign an attestation under penalty of perjury that this supervision requirement has been fulfilled.

D. Requirements for Movement of Associate Provider to Independent Provider Status

Reclassification from Associate Provider to Independent Provider, while not required, may be initiated by the practitioner at any point after he or she has satisfied all of the requirements of the Independent Provider level. An Associate Provider wishing to move to Independent Provider status must complete and submit attestation under penalty of perjury verifying that he or she has acquired the requisite hours of training and experience. In addition, the Associate Provider must submit a statement from each approved Independent Provider who provided required supervision confirming the practitioner's experience and readiness to serve as an Independent Provider.

Chart A: Overview of Requirements for Approved Providers

REQUIREMENT	INDEPENDENT PROVIDER	ASSOCIATE PROVIDER
Education Required For Initial Placement On Approved Provider List	Education level as required for licensure	Master's Degree Or Above In Mental Health Field
Licensure Required For Initial Placement On Approved Provider List	Must be licensed for independent provision of mental health services	Licensed Or Exempt Status Allowing For Provision Of Mental Health Services Under Supervision
Specialized Experience Required For Initial Placement On Approved Provider List	TREATMENT PROVIDER One thousand (1000) hours of treatment (at least half face-to-face} during the five (5) years prior to application, **OR** Two thousand (2000) hours over professional lifetime In either case, at least half with the population specified EVALUATOR Forty (40) evaluations during the five (5) years prior to application, at least half with the population specified	No Minimum Specialized Experience Required For Initial Placement On Approved Provider List As Treatment Provider And/Or Evaluator In Associate Provider Status Under Supervision of Approved Independent Provider
Specialized Training Required For Initial Placement On Approved Provider List	Sixty (60) hours during the five years prior to application	No Minimum Specialized Training Required For Initial Placement On Approved Provider List As Treatment Provider And/Or Evaluator In Associate Provider Status Under Supervision Of Approved Independent Provider
Supervision Required For Initial Placement On Approved Provider List	None required	Must Work Under An Approved Independent Provider One (1) Hour Of Supervision For Every Twenty (20) Hours Of Service Provided
Allowed Activities	May Provide Evaluation And Treatment Without Supervision	May Provide Evaluation And/Or Treatment Services Only Under The Supervision OF An Approved Independent Provider
Specialized Experience Required For Retention On Approved Provider List	Two Hundred (200) Hours Of Treatment And/Or Eight (8) Evaluations During The Two Years Preceding Renewal	Eighty (80) Hours Of Treatment And/Or Four (4) Evaluations During The Two Years Preceding Renewal
Specialized Training Required For Retention On Approved Provider List	Thirty (30) Hours Of Applicable Continuing Education/Training During The Two Years Preceding Renewal	Thirty (30) Hours Of Applicable Continuing Education/Training During The Two Years Preceding Renewal
Supervision Required For Retention On Approved Provider List	None	One (1) Hour Of Supervision Required For Every Twenty (20) Hours Of Service Provided

Approved Training Topics for inclusion as an Approved Sexual Treatment Provider

- Statistics on sexual offense victimization rates
- Sexual offender/offense characteristics
- Sexual offender risk assessment tools
- Sexual offender assessment procedures
- Sexual offender evaluation and treatment planning
- Sexual offender treatment and management techniques
- Risk, Needs, and Responsivity Principles
- Evaluating and reducing denial in sexual offenders
- Behavioral treatment techniques used with sexual offenders
- Cognitive behavioral techniques used with sexual offenders
- Relapse prevention with sexual offenders
- Physiological techniques (including penile plethysmography, polygraph examination, viewing measures of sexual interest)
- Legal and ethical issues regarding sexual offenders
- Special sexual offender populations (including sadistic sexual offenders, offenders with developmental disabilities, compulsive sexual offenders)
- Female sexual offenders
- Pharmacotherapy with sexual offenders
- Group therapy dynamics
- Techniques for sexual arousal treatment
- Maryland child and elder abuse reporting requirements
- Motivational interviewing
- Sexual offense survivors/the effects of victimization
- Family reunification/visitation
- Impact of sexual offenses on society
- Assessing treatment progress

- Secondary and vicarious trauma
- Wellness and self care
- Anger management
- Alcohol and other drug abuse assessment and treatment with sexual offenders
- Human sexuality
- Socio-cultural (ethnicity, religion, socioeconomic status) factors in sexual values and behavior:
    - Varieties of sexual orientation and gender identities:
    - Atypical sexual behavior, hypersexuality and sexual dysfunction:
    - Treatment of sexual disorders/dysfunctions:
    - Understanding the effects of psychiatric disorders on sexual offending:
    - Neuro-developmental impairments and traumatic brain injury:
    - Clinical supervision of therapists treating sexual offenders:
    - Requirements established by the Office of Professional Services:
    - Other topics listed, approved, or posted by the Office of Professional Services.

III. Lifetime Supervision for Sexual Offenders

Introduction

Some of the problematic elements of Lifetime Sexual Offender Supervision – as it was created in the original 2006 sexual offender management legislation – were resolved in subsequent legislation. Others, however, were not. The Sexual Offender Advisory Board reviewed this matter in depth during the past two years and developed draft legislation to address the most immediate of the remaining concerns.

Violations of Lifetime Sexual Offender Supervision

One issue to be addressed was the lack of any mechanism in the current law for charging and adjudicating violations of Lifetime Sexual Offender Supervision. It is important to note that Lifetime Sexual Offender Supervision was created to exist independently of the more traditional supervision models, such as mandatory release supervision, parole supervision, and probation supervision. In this respect, Maryland is different from some other states, as Lifetime Sexual Offender Supervision here does not commence until the terms of all other types of supervision have ended. Thus, conditions imposed as part of Lifetime Sexual Offender Supervision also do not take effect until those other forms of supervision have concluded (unless the court chooses to structure the cases otherwise).

Furthermore, violations of Lifetime Sexual Offender Supervision are unlike violations of the types of supervision with which we have become familiar. Violations of Lifetime Sexual Offender Supervision are considered to be new offenses. An initial instance of violation of Lifetime Sexual Offender Supervision is a misdemeanor, subject to a period of imprisonment not to exceed five years, or a fine not to exceed $5,000.00, or both. Subsequent violations of Lifetime Sexual Offender Supervision are felonies, subject to a period of imprisonment not to exceed ten years, or a fine not to exceed $10,000.00, or both.

In addition, upon release from a sentence imposed for violation of Lifetime Sexual Offender supervision, the offender resumes Lifetime Sexual Offender Supervision. This differs from the outcome in mandatory release supervision, parole supervision, and probation supervision cases where, if supervision is revoked on the basis of a violation of the terms of supervision, the case is closed and no further supervision occurs in the case.

Violations of mandatory release supervision and parole supervision are reported to the Maryland Parole Commission. Violations of probation supervision are reported to the sentencing judge. Hearings relative to those violations are conducted by the appropriate sentencing authority. In regard to Lifetime Sexual Offender Supervision, however, the law does not address the charging or adjudicating process. In that such a violation is to be treated as a new offense, the charge could be filed in the jurisdiction where the case is being supervised, which will often be different from the jurisdiction in which the sentence was imposed. Or, the charge could be filed in the jurisdiction where the specific offense occurred which, in the case of a new criminal charge, for example, might not be the same jurisdiction in which the case is being supervised or in which the offender was originally sentenced.

In its consideration of this issue, the Sexual Offender Advisory Board concluded that an overriding value of Lifetime Sexual Offender Supervision – beyond its ability to protect the public from further sexual offenses through its indefinite continuation of supervision, treatment, and other measures for the highest risk sexual offenders – was the potential for a continuity of review and response by a single authority. The Board further concluded that the logical authority would be that entity with the greatest familiarity with the details of the case as well as the greatest interest in the offender's progress (or lack of progress) while under supervision. It was thus the recommendation of the Sexual Offender Advisory Board that charges of violating the terms of Lifetime Sexual Offender Supervision should be filed with the Office of the State's Attorney for the jurisdiction in which the offender was originally sentenced and heard by the judge who imposed the sentence of Lifetime Sexual

Offender Supervision. This recommendation was incorporated into the draft legislation prepared by the Sexual Offender Advisory Board.

Petition for Discharge from Lifetime Sexual Offender Supervision

It was the determination of the Sexual Offender Advisory Board that there were also several aspects of the Petition for Discharge from Lifetime Sexual Offender Supervision portion of the law which could benefit from clarification and/or modification.

The first of these was the provision that allows a sexual offender to file a Petition for Discharge from Lifetime Supervision after serving at least five (5) years of such supervision and, if the petition is denied, to renew the petition after a minimum of one (1) year. It was the opinion of the subcommittee which reviewed this issue – which included representatives of both the treatment and supervision components, among others – that one year of further supervision would generally be insufficient to establish that the concerns that could lead to the denial of such a petition had been adequately addressed over a reasonably sustained time period. The draft legislation, therefore, recommends that a sexual offender not be eligible to renew a Petition for Discharge from Lifetime Sexual Offender Supervision for a minimum of two (2) years after an initial petition is denied.

In the interests of openness and an ongoing focus on the rights and safety of the victims of sexual offenses, the Sexual Offender Advisory Board also recommends that the notification process for a victim or victim's representative who has requested notification under § 11-104, should be extended to include notice of the filing of a Petition for Discharge from Lifetime Supervision and of the final decision of the judge in granting or denying such a petition.

There were several concerns about the process for handling a Petition for Discharge from Lifetime Sexual Offender Supervision once it had been filed. First, it was felt that the passage in the law which indicated that "A petition for discharge shall include a risk

assessment of the person conducted by a sexual offender treatment provider within three months before the date of the filing of the petition" was unclear as it stood and lacked sufficiently detailed guidance. More importantly, it was suggested that neither treatment providers, in preparing their evaluations, or judges, in entering their findings on the record, would be comfortable with the phrase "the petitioner is no longer a danger to others," as the current law requires.

To address these concerns, the Sexual Offender Advisory Board, in its proposed draft legislation, offers language relative to the information which must be provided as part of the process of responding to a Petition for Discharge from Lifetime Supervision. "A report from the sexual offender management team which includes a risk assessment of the person by a sexual offender treatment provider and a recommendation from the sexual offender management team regarding the discharge of the person from Lifetime Sexual Offender Supervision," must be included. Any additional information requested by the court, "at the court's discretion and upon a showing of good cause" may also be included.

In regard to the language establishing a standard for eligibility for discharge from Lifetime Sexual Offender Supervision, the Sexual Offender Advisory Board proposes the following: "The court may not grant a Petition for Discharge from Lifetime Sexual Offender Supervision unless the court makes a finding on the record that the petitioner's risk for sexual re-offense has been determined by assessment to be within a range sufficient to reasonably justify terminating further supervision."

Responding to Petition for Discharge from Lifetime Sexual Offender Supervision

Finally, the Sexual Offender Advisory Board noted that the existing Lifetime Sexual Offender Supervision legislation does not delineate the steps to be taken in responding to a Petition for Discharge from Lifetime Sexual Offender Supervision. While it concluded that it was not essential that that process be addressed in legislation, it was nevertheless considered important to establish such a process.

A flow chart (Chart B) was adopted by the Sexual Offender Advisory Board which outlined a sequence of events and actions – from the filing of a Petition for Discharge from Lifetime Sexual Offender Supervision to the decision of the sentencing judge to grant or deny the petition – which must be completed in response to a Petition for Discharge from Lifetime Sexual Offender Supervision.

Briefly, the process requires the court to forward the petition to the Division of Community Supervision for assignment to the designated COMET (Collaborative Offender Management / Enforced Treatment) containment team. The assigned COMET agent, after confirming the eligibility of the offender for consideration for discharge, schedules a risk assessment interview with a sexual offender treatment provider. The agent also schedules a polygraph examination specifically constructed to address issues relevant to the suitability of the offender for discharge. Upon receipt of the reports from the treatment provider and the polygraph examiner, the COMET agent incorporates their responses into a report summarizing the offender's overall criminal record and supervision history and provides a recommendation relative to the petition. The report is then reviewed by the COMET team and, following unanimous approval by the team, forwarded to the court.

The COMET team report can make one of three recommendations, which the judge is free to implement or override. A recommendation can be made to grant the petition and, if the judge concurs, Lifetime Sexual Offender Supervision will be terminated. A recommendation can be made to deny the petition and, if the judge concurs, the review process ends and Lifetime Sexual Offender Supervision continues. The COMET team can also recommend that the sexual offender be continued on "Level Five" Lifetime Sexual Offender Supervision. If the judge concurs, Lifetime Sexual Offender Supervision – at the least restrictive level – will continue for at least one year, after which a final determination can be made. This option would allow a sexual offender to demonstrate to the COMET team and to the court his or her ability to ameliorate any lingering concerns and/or satisfy any incomplete requirements with only minimal supervision. It also serves to distinguish

those sexual offenders for whom – on the basis of history, performance, and/or assessment – a firm denial of a Petition for Discharge from Lifetime Sexual Offender Supervision is appropriate, from those for whom a somewhat briefer period of continued observation and assessment can be justified.

Chart B – Proposed Process for Termination of Lifetime Sexual Offender Supervision