

501 KAR 6:190. Approval process for mental health professionals performing comprehensive sex offender presentence evaluations and treatment of sex offenders.

RELATES TO: KRS 17.550-17.991

STATUTORY AUTHORITY: KRS 17.554(1), 17.564

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.554(1) requires the Sex Offender Risk Assessment Advisory Board to approve providers to conduct court-ordered comprehensive sex offender presentence evaluations and treatment of sex offenders. This administrative regulation establishes approval requirements for providers.

Section 1. Definitions. (1) "Approved provider" is defined by KRS 17.550(3).

(2) "Board" is defined by KRS 17.550(1).

(3) "Comprehensive sex offender presentence evaluation" means a comprehensive mental health evaluation by an approved provider that includes a focus on the clinical data necessary to address the factors listed in KRS 17.554(2).

(4) "Corrective action plan" means a plan submitted by the approved provider and accepted by the board or a plan imposed by the board that requires an approved provider to take specific steps to be in compliance with this administrative regulation.

(5) "Sex offender" is defined by KRS 17.550(2).

(6) "Victim" is defined by KRS 17.550(4).

Section 2. Qualifications of Approved Providers. To qualify as an approved provider, an applicant shall, in addition to meeting the requirements of KRS 17.550(3):

(1) Have completed forty (40) hours of specialty training provided or approved by the board under Section 8 of this administrative regulation including the following:

(a) Characteristics and offense patterns of sex offenders;

(b) Treatment modalities used with sex offenders;

(c) Legal and ethical issues in the risk assessment of sex offenders;

(d) Victim's issues, not to exceed two (2) hours of credit against the total requirement;

(e) Issues related to the assessment of juvenile and female sex offenders; and

(f) Use of the appropriate actuarial or evaluation instruments;

(2) Be in compliance with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status; and

(3) Have a minimum of 250 hours documented experience conducting sex offender evaluations and clinical contact in sex offender treatment, including a minimum of:

(a) Sixty (60) hours documented experience conducting sex offender evaluations or completion of a practicum as described in Section 6 of this administrative regulation; and

(b) 190 hours documented clinical contact conducting sex offender treatment or completion of a practicum as described in Section 6 of this administrative regulation.

Section 3. Duties. (1) If an approved provider performs a comprehensive sex offender presentence evaluation for a sex offender, he shall not provide treatment for personal financial gain for the sex offender for six (6) months following that assessment.

(2) If an approved provider has provided treatment for a sex offender, he shall not perform a comprehensive sex offender presentence evaluation for personal financial gain for the sex offender for six (6) months following the treatment.

(3) An approved provider shall:

(a) Submit the first four (4) evaluations prepared after becoming an approved provider for review by the board;

(b) Comply with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status;

(c) Provide the board with the following contact information:

1. Mailing address that may be included on approved provider list sent to courts;
2. Mailing address to be used by board for contact with approved provider if different than address included on approved provider list sent to courts;
3. Phone number that may be included on approved provider list sent to courts;
4. Email address, if approved provider has one, that may be included on approved provider list sent to courts;

(d) Provide the board with changes in the contact information listed in paragraph (c) of this subsection within thirty (30) days of a change in information; and

(e) Complete eight (8) hours of continuing education approved or provided by the board by December 31 in each calendar year following the year in which the individual becomes an approved provider.

1. The board may grant an extension of six (6) months in which to complete hours of continuing education if:

- a. Requested by the approved provider for good cause shown; and
- b. A plan to make up uncompleted hours has not been requested or approved by the board for the approved provider for either of the two (2) preceding calendar years.

2. To request an extension, an approved provider shall:

- a. Submit a plan detailing how the uncompleted hours will be obtained within the next six (6) months;
- b. Submit a plan detailing how the next year's eight (8) hours will be obtained within the next calendar year; and
- c. State the reasons for the request for extension.

3. The request shall:

- a. Be made in writing;
- b. Include the number of hours that need to be completed for the calendar year;
- c. Include proof of any hours that were completed; and
- d. Be postmarked on or before December 31 of the calendar year for which the hours were required.

(4) An approved provider shall not:

(a) Identify himself as an approved provider as credentialed by the Sex Offender Risk Assessment Advisory Board under the provisions of KRS 17.550 through 17.991 if performing an evaluation that is not of an individual convicted of a felony sex crime as defined by KRS 17.500.

(b) Refer to an individual being evaluated or treated as a sex offender if the individual does not meet the definition of a sex offender as established in KRS 17.550.

Section 4. Approval Procedures. (1) The board shall approve an applicant as an approved provider if he meets the applicable qualifications specified in Section 2 of this administrative regulation and is not otherwise disqualified by the provisions of Section 5 of this administrative regulation.

(2) An individual may apply to the board for approval status as an approved provider by submitting:

(a) A written request for approval, which shall include the following:

1. Full name;
2. Business address;
3. Home address;

4. Daytime telephone number;
5. Fax number, if available; and
6. Social Security number;
- (b) Documentary evidence of his qualifications; and
- (c) Evidence that he has remedied the cause for the denial or revocation, if approval was previously denied or revoked under Section 5 of this administrative regulation.
- (3) The board shall determine that an application is incomplete if:
 - (a) The documentation of qualifications is insufficient to meet the required qualifications in Section 2 of this administrative regulation;
 - (b) The board is unable to verify the authenticity of the documentation of qualifications; or
 - (c) Any of the information required in subsection (2) of this section is not submitted.
- (4) If the board determines that an application is incomplete, the board shall specify to the applicant additional documentation or information that is required or identify the information that cannot be verified.
- (5) The board shall notify the applicant of its intent to approve or deny the application for approval in writing no later than ninety (90) days after receiving a complete application for approval.
- (6) Unless approval has been revoked in accordance with Section 5 of this administrative regulation, the board shall renew the approval status of an approved provider upon request if:
 - (a) He submits documentation of completion of at least eight (8) hours per year of continuing education provided or approved by the board under Section 8 of this administrative regulation; and
 - (b) The approved provider continues to meet the requirements of this administrative regulation and KRS Chapter 17 for approved provider status.
- (7) The board shall maintain a list of approved providers to be submitted to the Administrative Office of the Courts annually.

Section 5. Denial or Revocation of Approval. (1) The board shall deny, suspend or revoke approval if an applicant or an approved provider has:

- (a) Been convicted of or pled guilty to a felony criminal offense or a misdemeanor offense against a person;
- (b) Had a domestic violence protective order issued against him within the previous five (5) years;
- (c) Failed to meet the qualifications for approval set forth in Section 2 of this administrative regulation;
- (d) Failed to be in compliance with the ethical standards of professional practice as promulgated by the Kentucky licensing or certifying body under which he has professional status;
- (e) An alcohol or drug abuse problem as defined in KRS 222.005(3);
- (f) Falsified any information or documentation, or has concealed a material fact, in his request for approval;
- (g) Failed to implement a corrective action plan imposed by the board in accordance with Section 7 of this administrative regulation;
- (h) Three (3) or more evaluations which the board finds are below standard upon review;
- (i) Failed to comply with the comprehensive sex offender presentence evaluation procedure established in 501 KAR 6:200;
- (j) Shown an inability to conduct an evaluation with reasonable skill;
- (k) Accepted a gift or favor from a sex offender being assessed, from the family of the sex offender being assessed, or from their agent;
- (l) Provided a gift or favor to a sex offender being assessed, to the family of the sex offend-

er being assessed, or to their agent;

(m) Failed to comply with an order of the board; or

(n) Failed to comply with instructions of the board during an investigation.

(2) The board may deny, suspend, or revoke approval if an applicant or an approved provider has:

(a) Been convicted of or pled guilty to any misdemeanor criminal offense that is not against a person;

(b) Had a sanction applied against his mental health professional licensure or certification at any time in the past two (2) years;

(c) Failed to comply with the duties set forth in Section 3 of this administrative regulation;

(d) Less than three (3) evaluations that the board finds are below standard upon review;

(e) Failed to comply with the treatment requirements established in 501 KAR 6:220;

(f) Failed to comply with the evaluation procedure established in 501 KAR 6:200;

(g) Failed to comply with the requirements set forth by the board for the practicum or to successfully complete the practicum, if so required by Section 2 of this administrative regulation;

(h) Identified himself as an approved provider as credentialed by the Sex Offender Risk Assessment Advisory Board under the provisions of KRS 17.550 through 17.991 if performing an evaluation that is not of an individual convicted of a felony sex crime as defined by KRS 17.500; or

(i) Referred to an individual being evaluated or treated as a sex offender if the individual does not meet the definition of sex offender established in KRS 17.550.

(3) If the board intends to deny, suspend or revoke approval, it shall:

(a) Serve a notice of intent to deny, suspend, or revoke approval to the applicant or approved provider; and

(b) Notify the applicant or approved provider of his hearing rights, in accordance with KRS 17.560.

(4) An approved provider who has had his approval revoked shall be ineligible to apply to be an approved provider until the second anniversary of the date his approval was revoked unless his revocation was for failure to obtain the required eight (8) hours of continuing education and the required hours have been obtained.

Section 6. Practicum Requirements. (1) A practicum required by Section 2 of this administrative regulation shall be conducted by an approved provider who shall:

(a) Have a minimum of 2000 hours of experience conducting sex offender evaluations and clinical contact in sex offender treatment, including a minimum of:

1. 500 hours conducting sex offender evaluations; and

2. 1,500 hours of clinical contact in sex offender treatment;

(b) Be an approved provider in good standing with the board;

(c) Submit a request to conduct a practicum for each participant and be approved by the board to conduct the practicum;

(d) Directly observe the practicum participant's clinical practice in person or through video or audio tape;

(e) Examine and approve all comprehensive sex offender presentence evaluations performed by the practicum participant; and

(f) Give written notice to the board if he determines that the practicum participant's performance does not comply with the provisions of this administrative regulation, 501 KAR 6:200, or 6:220.

(2) To complete a practicum required by this administrative regulation, the participant shall:

- (a) Have a minimum of four (4) hours of face-to-face contact with the approved provider conducting the practicum each month, which shall include case discussion, review of reading assignments, skill building, and review of audio or video tape of actual clinical practice;
 - (b) Obtain a minimum of sixty (60) hours experience conducting sex offender evaluations;
 - (c) Obtain a minimum of 190 hours of clinical experience with face-to-face contact conducting sex offender treatment;
 - (d) Participate in the practicum for a minimum of six (6) months; and
 - (e) Meet the requirements of the practicum within a maximum of eighteen (18) months.
- (3) If an applicant has a portion of the minimum hours required to qualify as an approved provider in Section 2(3) of this administrative regulation, he shall participate in the practicum as described in subsections (1) and (2) of this section and may obtain only the hours needed to meet the minimum qualifications in Section 2(3) of this administrative regulation.

Section 7. Monitoring. (1) The board may:

- (a) Investigate a formal complaint, verified by affidavit, concerning an approved provider, if the complaint alleges a failure to comply with the provisions of this administrative regulation, 501 KAR 6:200, or 6:220;
 - (b) Refer a complaint against an approved provider, which relates to an unethical practice or practice which may be outside the approved provider's scope of practice, to the appropriate Kentucky licensure or certification board; and
 - (c) Investigate and evaluate an approved provider's adherence to the provisions of this administrative regulation, 501 KAR 6:200, or 502 KAR 6:220, on its own initiative.
- (2) The board or staff that assists the board may monitor an approved provider by the following activities:
- (a) Interviewing a sex offender or victim, if consent is given by the sex offender or victim for the interview;
 - (b) Reviewing evaluation or treatment records maintained by an approved provider on a sex offender;
 - (c) Direct observation of the evaluation or treatment of a sex offender; or
 - (d) Interviewing judicial, correctional, law enforcement officials or other individuals that interact with an approved provider in relation to comprehensive sex offender presentence evaluations or treatment of sex offenders.
- (3) If an approved provider fails to comply with provisions of this administrative regulation, 501 KAR 6:200, or 6:220, the board shall notify him in writing of its determination and may:
- (a) Require the approved provider to submit a corrective action plan for approval by the board;
 - (b) Impose a corrective action plan; or
 - (c) Revoke approval in accordance with Section 5 of this administrative regulation.
- (4) If the board requires an approved provider to comply with a corrective action plan, it shall review plan compliance within ninety (90) days.

Section 8. Approval of Specialty Training and Continuing Education. (1) Specialty training.

- (a) Specialty training, as required in Section 2 of this administrative regulation, shall be approved or provided by the board based on its nature or relevance.
- (b) An applicant seeking approval of a specialty training course shall submit to the board the following:
 1. A certificate of attendance which shall include the number of hours of training received;
 or
 - 2.a. If a certificate of attendance is not available, an affidavit that includes the number of

hours of education received; and

b. An agenda from the training seminar that describes topics and length of time spent on each topic.

(c) The board may require the applicant to provide course materials from the training seminar or additional information, if it is unable to adequately determine the nature or relevance of the training provided at the seminar from the materials submitted under subsection (1)(b) of this section.

(2) Continuing education.

(a) Continuing education, as required in Section 3 of this administrative regulation, shall be approved or provided by the board based on its nature or relevance.

(b) An approved provider seeking approval of continuing education hours shall submit to the board the following:

1. A certificate of attendance that shall include the number of hours of education received; or

2.a. If a certificate of attendance is not available, an affidavit that includes the number of hours of education received; and

b. An agenda from the seminar, which describes topics and length of time spent on each topic.

(c) The board may require the applicant to provide course materials from the seminar or additional information, if it is unable to adequately determine the nature or relevance of training provided at the seminar from the materials submitted under subsection (2)(b) of this section. (25 Ky.R. 2054; Am. 2871; eff. 6-16-1999; 26 Ky.R. 2307; 27 Ky.R. 759; eff. 9-11-2000; 31 Ky.R. 1883; 32 Ky.R. 65; eff. 8-5-2005; 32 Ky.R. 2147; 33 Ky.R. 99; eff. 8-7-2006; 3038; 3368; eff. 6-1-2007; 36 Ky.R. 1523; 2055-M; eff. 4-2-2010.)