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Florida Board of Psychology
4052 Bald Cypress Way - BIN C05
Tallahassee, FL 32399-3255

Re: Sex Offender Qualified Practitioner criteria

Dear psychologists and staff of the Board of Psychology:

Thank you for all the work you do on behalf of Floridians and the psychologists who serve them.

I wish to address the following areas:

I. Job Analysis of a "Qualified Practitioner"
II. Is There a Relevant, Recognized Specialty or Proficiency in Psychology?
III. Effectiveness of Treatment for People Who Have Committed a Sex Offense
IV. Comments on the Rule Submitted by ATSA/FATSA and Proposed (with Minor Modifications) by BOP
V. General Comments
VI. Recommendations

Note that "Qualified practitioner" appears in the following sections of the 2005 Florida Statutes:

- 947.005
- 947.1405
- 948.001
- 948.30

I. What is the Job Description of a Qualified Practitioner?

F.S. 948.001(6) defines "qualified practitioner":

> "Qualified practitioner" means a psychiatrist licensed under chapter 458 or chapter 459, a psychologist licensed under chapter 490, or a social

> worker, a mental health counselor, or a marriage and family therapist licensed under chapter 491 who, as determined by rule of the respective boards, has the coursework, training, qualifications, and experience to evaluate and treat sex offenders.

Thus it is up to the Board of Psychology to determine the qualifications necessary for a psychologist to perform the duties of a "qualified practitioner." What are those duties, as described in the 2005 Florida Statutes?

F.S. 948.30(1)(c) requires that the following condition of probation or community control be imposed on certain probationers and community controllees: "Active participation in and successful completion of a sex offender treatment program with qualified practitioners specifically trained to treat sex offenders, at the probationer's or community controllee's own expense." Thus at least some "qualified practitioners" must *treat people who have been convicted of sex offenses.* By implication, at least some "qualified practitioners" must *identify when a person who has been convicted of a sex offense has completed treatment.*

F.S. 948.30(1)(e) requires that for certain probationers or community controllees to have contact with children, "The court may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment." Thus at least some "qualified practitioners" must *conduct risk assessments and prepare recommendations.*

F.S. 948.30(1)(e)(1) describes what must be included in "a risk assessment completed by a qualified practitioner. The qualified practitioner must prepare a written report that must include the findings of the assessment and address [certain] components," including "the results of current psychological testing of the sex offender if determined necessary by the qualified practitioner." Thus at least some "qualified practitioners" must *determine whether current psychological testing is necessary and describe the results of psychological testing."*

The written report described in F.S. 948.30(1)(e)(1) must also include "j. A description of the proposed contact, including the location, frequency, duration, and supervisory arrangement." Thus at least some "qualified practitioners" must *prepare specific recommendations regarding supervised contact between a particular child and a particular person who has been convicted of a sex offense.*

The written report described in F.S. 948.30(1)(e)(1) must also include "m. The qualified practitioner's opinion, along with the basis for that opinion, as to whether the proposed contact would likely pose significant risk of emotional or physical harm to the child." Thus at least some "qualified practitioners" must *form and express opinions about whether contact with a particular person who has been convicted of a sex offense would pose a significant risk of emotional or physical harm to a particular child.*

F.S. 948.30(1)(e)(2) directs that in considering whether certain probationers or community controllees can have supervised contact with a child, the court must consider "A recommendation made as a part of the risk assessment report as to whether supervised contact with the child should be approved." Thus at least some "qualified practitioners" must *recommend whether or not a particular person who has been convicted of a sex offense should be approved to have supervised contact with a particular child.*

F.S. 948.30(1)(e)(4) directs that in considering whether certain probationers or community controllees can have supervised contact with a child, the court must consider "A safety plan prepared by the qualified practitioner, who provides treatment to the offender, in collaboration with the sex offender, the child's parent or legal guardian, if the parent or legal guardian is not the sex offender, and the child, when age appropriate, which details the acceptable conditions of contact between the sex offender and the child." Thus at least some "qualified practitioners" must *prepare a safety plan for a person who has been convicted of a sex offense, and, concurrently, provide treatment to the person who has been convicted of a sex offense.*

The last part of F.S. 948.30(1)(e) directs "The court may not appoint a person to conduct a risk assessment and may not accept a risk assessment from a person who has not demonstrated to the court that he or she has met the requirements of a qualified practitioner as defined in this section." Thus at least some "qualified practitioners" must *demonstrate to a court that they have met the requirements of being qualified practitioners.*

F.S. 948.30(1)(g) requires "Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, accessing, owning, or possessing any obscene, pornographic, or sexually stimulating visual or auditory material, including telephone, electronic media, computer programs, or computer services that are relevant to the offender's deviant behavior pattern." Considering this in conjunction with F.S. 948.30(1)(c), which requires that the sex offender treatment program be "with qualified practitioners specifically trained to treat sex offenders," at least some "qualified practitioners" must *prepare treatment plans for people who have committed sex offenses* and must *determine whether a particular person who has been convicted of a sex offense should be allowed to view, access, own, or possess certain obscene, pornographic, or sexually stimulating visual or auditory material.*

F.S. 948.30(1)(h) requires "Effective for probationers and community controllees whose crime is committed on or after July 1, 2005, a prohibition on accessing the Internet or other computer services until the offender's sex offender treatment program, after a risk assessment is completed, approves and implements a safety plan for the offender's accessing or using the Internet or other computer services." Considering this in conjunction with F.S. 948.30(1)(c), which requires that the sex offender treatment program be "with qualified practitioners specifically trained to treat sex offenders," at least some "qualified practitioners" must *determine whether and how a particular person who has been convicted of a sex offense should be allowed to use the Internet or other computer services.*

F.S. 948.30(2)(a) requires "As part of a treatment program, participation at least annually in polygraph examinations to obtain information necessary for risk management and treatment and to reduce the sex offender's denial mechanisms. A polygraph examination must be conducted by a polygrapher trained specifically in the use of the polygraph for the monitoring of sex offenders, where available, and shall be paid for by the sex offender. The results of the polygraph examination shall not be used as evidence in court to prove that a violation of community supervision has occurred." Considering this in conjunction with F.S. 948.30(1)(c), which requires that the sex offender treatment program be "with qualified practitioners specifically trained to treat sex offenders," at least some "qualified practitioners" must *conduct polygraph examinations.*

Compiling the above yields the following job duties of "qualified practitioners" as identified in the 2005 Florida Statutes:

1. *treat people who have been convicted of sex offenses,*
2. *identify when a person who has been convicted of a sex offense has completed treatment,*
3. *conduct risk assessments and prepare recommendations,*
4. *determine whether current psychological testing is necessary and describe the results of psychological testing,*
5. *prepare specific recommendations regarding supervised contact between a particular child and a particular person who has been convicted of a sex offense,*
6. *form and express opinions about whether contact with a particular person who has been convicted of a sex offense would pose a significant risk of emotional or physical harm to a particular child,*
7. *recommend whether or not a particular person who has been convicted of a sex offense should be approved to have supervised contact with a particular child,*
8. *prepare a safety plan for a person who has been convicted of a sex offense, and, concurrently, provide treatment to the person who has been convicted of a sex offense,*
9. *demonstrate to a court that they have met the requirements of being qualified practitioners,*
10. *prepare treatment plans for people who have committed sex offenses,*
11. *determine whether a particular person who has been convicted of a sex offense should be allowed to view, access, own, or possess certain obscene, pornographic, or sexually stimulating visual or auditory material,*
12. *determine whether and how a particular person who has been convicted of a sex offense should be allowed to use the Internet or other computer services,*
13. *conduct polygraph examinations.*[1]

[1] I recognize that psychologists and other treatment providers do not really conduct polygraph examinations. Polygraph examinations are influence tactics used in risk management, not treatment. See DeClue, G. (2003). Book review of The Polygraph and Lie Detection. *Journal of Psychiatry and Law*, 31, 361-368, available at http://gregdeclue.myakkatech.com/Reprints%20of%20Publications.html

Conclusion: The rule proposed by BOP does not reflect the job description embedded in the Florida Statutes. Instead, it bears striking resemblance to requirements for clinical membership in ATSA/FATSA.

Incidentally, I note that the following statute remains in effect:

> **948.31 Diagnosis, evaluation, and treatment of offenders placed on probation or community control for certain sex offenses or child exploitation.**--The court shall require a diagnosis and evaluation to determine the need of a probationer or offender in community control for treatment. If the court determines that a need therefor is established by such diagnosis and evaluation process, the court shall require outpatient counseling as a term or condition of probation or community control for any person who was found guilty of any of the following, or whose plea of guilty or nolo contendere to any of the following was accepted by the court:
> (1) Lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, as defined in s. 800.04.
> (2) Sexual battery, as defined in chapter 794, against a child.
> (3) Exploitation of a child as provided in s. 450.151, or for prostitution.
>
> Such counseling shall be required to be obtained from a community mental health center, a recognized social service agency providing mental health services, or a private mental health professional or through other professional counseling. The plan for counseling for the individual shall be provided to the court for review.

II. Is There a Recognized Specialty or Proficiency in Psychology that is Relevant to "Qualified Practitioner" in Florida Statutes, Chapter 947 and 948?

Within the field of psychology, is there a specialty or proficiency recognized by the American Psychological Association (APA) or the American Board of Professional Psychology (ABPP) that focuses on assessment and/or treatment of people who have been convicted of sex offenses? We first turn to APA at http://www.apa.org/crsppp/rsp.html. The recognized specialties are

- Clinical Neuropsychology
- Clinical Health Psychology
- Psychoanalytic Psychology
- School Psychology
- Clinical Psychology
- Clinical Child Psychology
- Counseling Psychology
- Industrial-Organizational Psychology
- Behavioral Psychology
- Forensic Psychology
- Family Psychology

The recognized proficiencies are

- Biofeedback: Applied Psychophysiology
- Clinical Geropsychology
- Psychopharmacology
- Treatment of Alcohol and Other Psychoactive Substance Use Disorders
- Sport Psychology
- Assessment and Treatment of Serious Mental Illness

APA recognizes a specialty area of Forensic Psychology (see http://www.apa.org/crsppp/archivforensic.html) :

> **General description of the specialty:** Forensic psychology is the professional practice by psychologists who foreseeably and regularly provide professional psychological expertise to the judicial system. …
>
> **What specialized knowledge undergirds the specialty?** Specialized knowledge in forensic psychology is important in three areas. These are as follows: (1) clinical (e.g., diagnosis, treatment, psychological testing, prediction and intervention measurement, epidemiology of mental disorders, ethics), (2) forensic (e.g., response style, forensic ethics, tools and techniques for assessing symptoms and capacities relevant to legal questions) and (3) legal (e.g., knowledge of law and the legal system, knowledge of where and how to obtain relevant legal information).

> **For what problems are the services of those who practice in this domain particularly useful?** Forensic psychologists address problems and questions that arise in the course of legal proceedings, when these problems and questions have both a psychological element and a legal component. Such problems and questions are typically part of larger legal questions to be decided by the courts. The assessment provided by forensic psychologists for such purposes should be relevant, accurate, and credible, yielding conclusions that inform legal arguments and judicial decision-making but do not intrude upon them.
>
> **What are the interlinked skills and procedures that form the essential elements of the specialty?** The procedures and techniques of forensic psychology focus on the evaluation and treatment of clinical disorders and other relevant characteristics in a legal context, and on providing reports and expert testimony on relevant findings.

ABPP offers specialty certification in the following specialties within professional psychology (see http://www.abpp.org/abpp_certification_specialties.htm):

- Child and Adolescent
- Clinical
- Clinical Health
- Clinical Neuropsychology
- Cognitive Behavioral
- Counseling
- Family
- Forensic
- Group
- Organization and Business
- Psychoanalysis
- Rehabilitation
- School

The specialty area of forensic psychology is described at http://www.abfp.com/brochure.asp :

> **Forensic Psychology** is the application of the science and profession of psychology to questions and issues relating to law and the legal system. …
>
> **The Diplomate in Forensic Psychology**
>
> The credential for identifying competence at the highest level in forensic psychology is the Diplomate. The receipt of the Diploma in Forensic Psychology from the American Board of Professional Psychology (ABPP)

attests to the fact that an established organization of peers has examined and accepted the Diplomate as functioning at the highest level of excellence in his or her field of forensic competence. The ABPP diploma has been recognized by judicial decisions, regulations, and statutes in some jurisdictions as the standard of professional competence in forensic psychology. The Diploma awarded by the American Board of Professional Psychology (ABPP) is the only post-doctoral specialty certification recognized in the American Psychological Association Directory. ABPP has been incorporated since 1947, and ABPP has rigorous standards for the credentials, work review and oral examination of applicants for three hours by a panel of three psychologists who hold the Forensic Diplomate. No candidates are exempt from the examination or "grandfathered."

The Practice of Forensic Psychology Includes:

- Psychological evaluation and expert testimony regarding criminal forensic issues such as trial competency, waiver of Miranda rights, criminal responsibility, death penalty mitigation, battered woman syndrome, domestic violence, drug dependence, and sexual disorders …
- Assessment, treatment and consultation regarding individuals with a high risk for aggressive behavior in the community, in the workplace, in treatment settings and in correctional facilities …
- Specialized treatment service to individuals involved with the legal system …
- Consultation and training to mental health systems and practitioners on forensic issues …

Conclusion: Among psychologists, those most qualified to assess and treat people who have been convicted of sex offenses are forensic psychologists, and those most clearly qualified are those with a Diplomate in Forensic Psychology from the American Board of Forensic Psychology (ABFP), a specialty board of the American Board of Professional Psychology (ABPP).

III. Effectiveness of Treatment for People Who Have Committed a Sex Offense

When there is sufficient research to support an opinion, APA issues press releases notifying its members and the public about what works. I searched for such an opinion regarding "sex" and found the following regarding sex education at http://www.apa.org/releases/sexeducation.html :

> **BASED ON THE RESEARCH, COMPREHENSIVE SEX EDUCATION IS MORE EFFECTIVE AT STOPPING THE SPREAD OF HIV INFECTION, SAYS APA COMMITTEE**
>
> **Research Shows That Abstinence-Only Programs Have Limited Effectiveness And Unintended Consequences**

A search for APA press releases regarding "sex offender" yielded no comparable document.

A general search on APA's website for "sex offender" yielded links to two books published by APA in 2005, both of which I reviewed for the Journal of Psychiatry and the Law. The review is published in the current issue. Excerpts from that review follow:

> **The Causes of Rape: Understanding Individual Differences in Male Propensity for Sexual Aggression**, Martin L. Lalumière, Grant T. Harris, Vernon L. Quinsey, and Marnie E. Rice (Washington, D.C.: American Psychological Association, 2005), 294 pp., $59.95 ($49.95 for APA members).
>
> **Preventing Sexual Violence: How Society Should Cope with Sex Offenders,** John Q. LaFond (Washington, D.C.: American Psychological Association, 2005), 259 pp., $59.95 ($49.95 for APA members).
> Reviewed by Gregory DeClue, Ph.D., ABPP
>
> … A columnist for my local newspaper recently conveyed information from a member of an association of people that focuses on treating sex abusers. The columnist referred to them as "an organization with adamant views based on research, not politics" and wrote that the association "insists that the proof is in: Good therapy works amazingly well."[2]
>
> These two books were written to promote our understanding of why people commit sex crimes and what steps society might take to protect us. The books also provide data relevant to the claim that good sex-offender treatment works "amazingly well." …

[2] Lyons, T. (4/12/05). Sex offender therapy, not bracelets, is best child protection, expert says. *Sarasota Herald-Tribune,* at 1B.

Steps Society Might Take to Protect Us

Lalumière and colleagues write that "psychologists know a great deal about the personal characteristics that distinguish or fail to distinguish rapists from other offenders and from other men. They also know that some convicted rapists are more likely than others to commit sexual offenses once again, and they can identify those men reliably."[3]

LaFond concurs: "There is … a small group of sex offenders who are very dangerous and do have a lasting proclivity to sexually reoffend. Important strides have been made in accurately identifying who they are, [which can] enhance our ability to apply current crime-control strategies to those sex offenders who are at greatest risk of reoffending. Limited resources can then be concentrated on the most dangerous sex offenders, thereby maximizing our chances of preventing sexual violence."[4]

Treatment

So, we have a pretty good idea about which sex offenders are most dangerous, but do we know what to do about them? What about sex-offender treatment? Does it work "remarkably well" as claimed in the newspaper article I cited at the beginning of this review?

The authors of these two books examine similar data regarding the effectiveness of sex-offender treatment, but arrive at somewhat different conclusions. The universally recognized "most ambitious and scientifically sound study to date on whether treatment reduces sexual recidivism" found "no positive effect for treatment."[5] It was found that people who completed treatment did better than people who dropped out of treatment, but "volunteers who had sought treatment and received it had very similar recidivism rates … to those who also had volunteered for treatment but did not receive it."[6]

There is currently some difference of opinion about what to make of recent studies that do show differences in detected recidivism between treated sex offenders and untreated controls, because those studies all have significant design limitations. LaFond distinguishes between "the agnostic view" that "simply put, the effectiveness of adult sex offender treatment has yet to be demonstrated" and the "cautiously optimistic view"

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[3] *Ibid,* at 4.
[4] LaFond, at 58.
[5] Lalumière et al., at 176-179, 194; LaFond, at 77-78. This and the next quote are from LaFond, at 78. For more about that study, see Marques, J. (1999). How to answer the question, does sex offender treatment work? *Journal of Interpersonal Violence, 4,* 437-451.
[6] LaFond, at 77-78. See also, DeClue, G. (2002). Remaking relapse prevention with sex offenders: A source book, and Practice standards and guidelines for members of the Association for the Treatment of Sexual Abusers (ATSA). *Journal of Psychiatry & Law, 30,* 285-292. (book review)

that "the balance of available evidence suggests that current treatments reduce recidivism, but that firm conclusions await more and better research."[7]

Even the cautious optimists acknowledge that there have been "few high-quality research studies" to support their optimism, the apparent positive effects of treatment might not be caused by treatment at all, and the "treatment effects in reducing sexual recidivism were not large in absolute terms (7%)."[8] That is, treated people were 7% less likely to be detected for committing a new sex crime than those who had not been treated.

In addition to LaFond's agnostics and cautious optimists, we must recognize that there are true believers and cautious pessimists. Note that the 2002 meta-analysis was sponsored by the Association for the Treatment of Sex Abusers (ATSA),[9] the "organization with adamant views based on research, not politics" whose member, a true believer, claimed that treatment works "amazingly well."

And there are cautious pessimists. Lalumière and colleagues have reviewed the treatment of sex offenders in great depth, and "we believe that there are too few well-controlled studies of sex offender treatment to conduct an informative meta-analysis."[10] They note that the small observed differences between treated and control groups could be accounted for by such factors as

- Comparison groups that included an unknown number of men who would have refused or dropped out of treatment had it been offered,
- A longer follow-up period for the comparison group,
- Exclusion of offenders from the treatment group but not the comparison group,
- Disproportionately high-risk offenders in the comparison group, and
- Disproportionately low-risk offenders in the treated group.[11]

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[7] LaFond, at 79-80.

[8] *Ibid,* at 80. See 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 for sex offenders, *Sexual Abuse: A Journal of Research and Treatment, 2,* 169-194.

[9] Lalumière et al., at 178.

[10] *Ibid,* at 172. Note that Vernon Quinsey is a co-author of the 2002 meta-analysis and a co-author of *The Causes of Rape,* so he has apparently gone on record saying that there are not enough good studies to conduct the meta-analysis that he co-conducted! Dr. Quinsey illustrates that one can be optimistic one day and pessimistic another.

[11] *Ibid,* at 172. Note that Vernon Quinsey is a co-author of the 2002 meta-analysis and a co-author of *The Causes of Rape,* so he has apparently gone on record saying that there are not enough good studies to conduct the meta-analysis that he co-conducted! Dr. Quinsey illustrates that one can be optimistic one day and pessimistic another.

> Lalumière and colleagues "conclude that the balance of available evidence suggests that current treatments *do not* reduce recidivism, but that firm conclusions await more and better research."[12] "There is no clarity about whether anyone has demonstrated a specific effect of treatment in lowering sexual offender recidivism. The situation is even worse with respect to rapists in particular. There is simply no convincing evidence that treatment has ever caused rapists to desist or even to reduce their offending behavior."[13]
>
> I count myself among the cautious pessimists regarding the effectiveness of sex-offender treatment. …
>
> ***Risk Management and Containment***
>
> LaFond introduces his book by telling us that for many years he has been skeptical of many of society's efforts to protect us from sexual violence. Understandably, people have asked him, "Well, what would you do?" His response, *Preventing Sexual Violence,* explores what is known about sex offenders, sex victims, sex crimes, and societies' responses. He notes that much of what catches the public's eye, such as the three stories of child abduction, assault, and murder mentioned at the beginning of this review, are not representative of sex crimes, sex offenders, or sex victims. And many of our public laws have been written in quick response to such high-profile offenses.[14] LaFond proposes, instead, that society should carefully and soberly consider what is known about what works and what does not, and which interventions would target the most dangerous offenders in the most cost-effective way. Of course no system of managing and containing risk will be foolproof, but LaFond's analysis suggests ways that society can most affordably and most effectively reduce sex offending.[15]

Conclusion: There is no clarity about whether anyone has demonstrated a specific effect of treatment in reducing recidivism among people who have committed sex offenses. Available research shows that sex-offender treatment may reduce recidivism as much as 7%, but due to methodological weaknesses in the studies the effect may be as low as 0%. Reasonable scientists and practitioners may be agnostic, cautiously optimistic, or cautiously pessimistic about the effectiveness of sex offender treatment, but the "true believer" claims of some ATSA members that sex-offender treatment works "amazingly well" are unwarranted and irresponsible.

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[12] *Ibid,* at 178-179.
[13] *Ibid,* at 188.
[14] At the time of this writing, Florida is legislating at least one new law based on one of these cases, the "Jessica Lunsford Act." Downloaded April 26, 2005 from http://www.theorator.com/bills109/hr1505.html .
[15] The full text of this review can be accessed from the Reprints page at http://gregdeclue.myakkatech.com/.

IV. Comments on the Rule Submitted by ATSA/FATSA and Proposed (with Minor Modifications) by BOP

RULE TITLE: RULE NO.:
Qualifications to Evaluate and Treat Sex Offenders Under "Qualified Practitioner" Status 64B19-18.001 PURPOSE AND EFFECT: The Board proposes to promulgate a new rule to implement new legislation regarding the qualifications of licensed psychologists to complete risk assessments and prepare safety plans pursuant to Chapter 947, F.S. SUMMARY: The new rule specifies the qualifications of licensed psychologists to complete risk assessments and prepared safety plans pursuant to Chapter 947, F.S.

Comment: This is incomplete and misleading. Chapter 947 refers only to parolees. The new rule will also affect probationers and community controllees addressed in Chapter 948, which I expect is a larger population. It is misleading to write that the rule would implement new legislation regarding "qualifications to complete risk assessments and prepare safety plans" without recognizing that the legislation also addresses qualifications to evaluate and treat people who have been convicted of sex offenses. See especially F.S. 948.30(1)(c), which requires that the following condition of probation or community control be imposed on certain probationers and community controllees: "Active participation in and successful completion of a sex offender treatment program with **qualified practitioners** specifically trained to treat sex offenders, at the probationer's or community controllee's own expense."

I am unfamiliar with the Board of Psychology's rules about proposing and implementing rules, but as a matter of fundamental fairness I respectfully request and challenge the Board not to implement this rule as worded because the notice of the proposed rule is misleading.

64B19-18.001 Qualifications to Evaluate and Treat Sex Offenders Under "Qualified Practitioner" Status. Prior to holding oneself out as a "Qualified Practitioner," eligible to evaluate and treat sex offenders, complete a "risk assessment" or prepare a "safety plan," as defined in Sections 947.005(9), (10), and (11), Florida Statutes, a Florida licensed psychologist must:

Comment: Please see comments above about the misleading failure to refer to Chapter 948.

(1) Possess 55 hours of doctoral (based on the formula: one doctoral hour equals 10 continuing education hours) or continuing education in the following core areas:

Comment: Even if the Board of Psychology wished to adopt the recommendation of ATSA and FATSA (as posted at http://www.royallcreations.com/fatsa/INFORMATIONPACKETshortversion.pdf) why change the wording to **doctoral** education? Are you aware of studies showing that practitioners who have had doctoral coursework in, for example, etiology of sexual devi-

ance, are better equipped to protect the public than practitioners who have had undergraduate or master's-level coursework?

(a) Etiology of sexual deviance;

The etiology of sexual deviance is unknown. Perhaps it would be more fitting to require training in "theory and research regarding the etiology of sexual deviance."

(b) Evaluation/risk assessment and treatment of adult and adolescent sexual offenders that have established scientific basis;

There are no "treatment of adult and adolescent sexual offenders that have established scientific basis." First, the phrase fails grammatically, unless it is intended to be about "offenders that have established scientific basis" (in contrast to offenders that have no established scientific basis?). Although this may seem like a trivial point, I suggest that any Board member who has not already noticed that the rule includes this fatal grammatical error either has not read the proposed rule carefully or does not recognize that he or she does not understand what the proposed rule means. If any Board member does not understand this proposed rule very well, but is deferring to the supposed understanding of another, I implore that Board member to **stop deferring! Please do not vote for this proposed rule unless you are sure that you really understand it.** I assure you that this proposed rule is not only poorly written (which is obvious, if you read the above item carefully) but also poorly conceived. I agree with a professor (who holds both a J.D. and a Ph.D.) who read the proposed rule and commented: "It's a bald-faced, unscientific, indefensible, trade-restraining power grab."

The above phrase also fails because no methods for treating people who have committed sex offenses have an "established scientific basis" showing that they reduce recidivism. Although some people have claimed that research shows that some techniques are clearly better at reducing recidivism than other techniques, such claims are based on studies with important research design flaws (Lalumière et al., 2005). Studies with more sophisticated research designs have failed to show an "established scientific basis" for claims that the treatment reduces recidivism, leading to a "convoluted, guild enhancing, and unlikely" analysis that the lack of reduction in recidivism was because the treatment was just too good! (DeClue, 2002).

Perhaps it would be more fitting to require training in "theory and research regarding evaluation, risk assessment, and treatment of people who have been convicted of sex offenses."

(c) Evaluation/risk assessment and treatment of specialized populations of sexual offenders (i.e., the female and developmentally delayed);

I have no specific objection to this part.

(d) Use of plethysmography, visual reaction time, and polygraphy in the evaluation, treatment, and monitoring of sexual offenders;

Comments: Does the Board of Psychology really wish to declare that the following constitute part of the 'core' training for any psychologist "prior to holding oneself out as a 'Qualified Practitioner'": "Use of plethysmography, visual reaction time, and polygraphy in the evaluation, treatment, and monitoring of sexual offenders"?

Perhaps it would be more fitting to require training in "theory and research regarding the following assessment tools and influence techniques: plethysmography, visual reaction time, and polygraphy."

(e) Sex offenders and relevant DSM-IV diagnosis;

This is silly. Of course psychologists need to know about DSM diagnoses. But it is unnecessary to require specialized training.

(f) Safety planning/Family safety planning;

I have no specific objection to this part.

(g) Report writing;

Same comment as that about diagnosis, above: psychologists get training in report writing, and it is silly to require specialized training. The law itself provides sufficient detail.

(h) Legal and ethical issues in the evaluation and treatment of sexual offenders; and

I have no specific objection to this part.

(i) Relapse prevention treatment model.

It would be more reasonable to require "training in the use of popular treatment techniques, including the relapse-prevention model."

(2) Have documented 2,000 hours of supervised experience in the evaluation and treatment of sexual offenders under the supervision of a "Qualified Practitioner" or Board-approved equivalent or be a clinical member of the Association for Treatment of Sexual Abusers (ATSA).

In less than a sentence this requirement manages to include numerous flaws.

Note the relative emphasis apportioned to training (55 hours) versus supervised experience (2000 hours). That is 36 hours of supervised experience for every hour of training. This is unwarranted and unnecessary. This is quite inconsistent with the "scientist-

practitioner" model of professional psychology known as the "Boulder model." Please note that the internship requirement within the American Board of Professional Psychology (ABPP) is 1500 hours (See http://www.abfp.com/pdfs/overview_ABPP.pdf), and the professional experience requirement of the American Board of Forensic Psychology (ABFP; a specialty board of ABPP) is 1000 hours *without the requirement that the work be supervised* (See http://www.abfp.com/pdfs/overview_ABFP.pdf). By requiring 2000 hours of training (quite likely supervised by a non-psychologist) the Board of Psychology would ascribe no value whatsoever to the clinical practicum and internship completed by a psychologist in route to the doctorate in psychology and the psychology license.

Does the Board of Psychology really wish to make the requirements to evaluate and treat people who have been convicted of sex offenses more stringent than the requirements for the Diploma in Forensic Psychology from ABPP/ABFP? Why? And why would BOP wish to require a psychologist who has evaluated and treated sex offenders for years, and has been examined and accepted by ABPP/ABFP as "functioning at the highest level of excellence in his or her field of forensic competence"[16] to undergo supervision from a non-psychologist who may have been "grandfathered in" to ATSA and who may have less knowledge, training, and experience?

This aspect of the rule invokes the dark, surreal world of Franz Kafka: "The balance of available evidence suggests that current treatments *do not* reduce recidivism, but that firm conclusions await more and better research" (Lalumière et al., 2005, pp. 178-179), yet psychologists must plod through thousands of hours of "supervised experience" in techniques that quite possibly do no good. If there were an evidence-supported treatment methodology for reducing recidivism – and there is not – then it should not take 2,000 hours to teach it to a psychologist who has already successfully completed a clinical practicum, a clinical internship, and a year of post-doctoral supervised experience. But if the treatment methods are not efficacious, what good are thousands of hours of experience? (An estimated 40,000 to 50,000 lobotomies were performed on Americans between 1936 and 1960, over 3,400 by Walter Freeman.[17])

If the Board were to adopt this rule with the phrase "or be a clinical member of the Association for Treatment of Sexual Abusers (ATSA)," it would be a slap in the face of every psychologist in Florida who has chosen not to join ATSA. ATSA includes some "grandfathered" members who never completed the required supervised training. Why would Florida's Board of Psychology treat "grandfathering" by ATSA as an excuse not to have to meet a requirement of every other psychologist in Florida? Why should the Board of Psychology "grandfather" anyone? And if anyone is to be grandfathered, why ATSA members and not ABPP diplomates or members of the American Association of Sex Educators, Counselors, and Therapists (AASECT) or members of the Society for the Scientific Study of Sex (SSSS)?

[16] See http://www.abfp.com/brochure.asp
[17] See http://www.mcmanweb.com/article-122.htm

V. General Comments

After careful review I wrote in 2002 that "PS&G [Practice Standards and Guidelines for Members of the Association for the Treatment of Sexual Abusers (ATSA)] is replete with statements of fact for which no data are presented or referenced, at least some of which are not supported by research. … In their current form PS&G does no more than provide a consensus of whims, preferences, and personal theories. … Policy makers should not treat ATSA's Practice Standards and Guidelines as a research-based summary of what we know about sex offender treatment."[18] I am appalled to see that our own Board of Psychology is doing just that, and in the process is selling out Florida psychologists and doing a disservice to the residents of Florida. I strongly implore the Board of Psychology to read that review carefully before deciding whether to adopt a rule proposed by ATSA, apparently on faith that ATSA knows best. There are many well-qualified researchers and practitioners who are members of ATSA, but that does not make this a good rule for psychologists or for Floridians.

Personal/Professional Interest: I have been evaluating and treating people who have committed sex offenses for over 15 years, and have presented workshops in this field sponsored by APA/ABFP and AASECT. I will be presenting in this field at the upcoming conference of the American Psychology-Law Society (AP-LS) in St. Petersburg, and I have been invited by ABFP to present again in this field at the next APA conference in New Orleans. I have had several articles in this field published in peer-reviewed journals.[19] I have been licensed to practice psychology in Florida since 1984. I am an AASECT-certified Sex Therapist, a member of the Society for the Scientific Study of Sex and the American Psychology-Law Society, and a forensic diplomate of ABPP/ABFP. Evaluation and treatment of sex offenders has been a significant part of my work for nearly 20 years, comprising considerably more than 2000 hours of experience, but because I have not sought supervision from an ATSA member (indeed, until now, why would I?) I might not be considered to be a "qualified practitioner."

VI. Recommendations

1. I strenuously object to the proposed ATSA/FATSA-inspired rule.

2. I have no objection to the FPA proposal and would certainly support it rather than the proposed ATSA/FATSA-inspired rule.

3. I propose the following rule, modeled after **64B19-18.002 Use of the Title Sex Therapist** and **64B19-18.0025 Qualifications to Practice Juvenile Sexual Offender Therapy:**

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[18] See DeClue, G. (2002). Book review of two books: 1) Remaking Relapse Prevention with Sex Offenders: A Source Book & 2) Practice Standards and Guidelines for Members of the Association for the Treatment of Sexual Abusers (ATSA). Journal of Psychiatry and Law, 30, 285-292. at http://gregdeclue.myakkatech.com/Reprints%20of%20Publications.html).

[19] Some are available at http://gregdeclue.myakkatech.com/Reprints%20of%20Publications.html.

Prior to holding oneself out as a "qualified practitioner" eligible to evaluate and treat sex offenders, complete risk assessments, and/or prepare safety plans as defined in Chapters 947 and 948, Florida Statutes, a Florida licensed psychologist must have received training in the provision of psychological health services and shall have completed a minimum of 100 clock hours[20] of continuing education which meets the requirements of Rule 64B19-13.003, F.A.C., in the specific areas of sex-offender evaluation and/or treatment. Continuing education based on print or electronic media is acceptable if it is approved by the American Psychological Association (APA). Individual supervision by a Diplomate of the American Board of Professional Psychology (ABPP) who is experienced in assessing and/or treating sex offenders; or with a Sex Therapy Supervisor certified by the American Association of Sex Educators, Counselors, and Therapists (AASECT); or with a clinical member of the Association for the Treatment of Sex Abusers (ATSA) can be substituted for clock hours of education on an hour-for-hour basis. Directly relevant college coursework can be substituted for continuing education based on the formula: one college-coursework hour equals ten continuing education hours. Florida licensed psychologists who hold themselves out as "qualified practitioners" eligible to evaluate and treat sex offenders, complete risk assessments, and/or prepare safety plans as defined in Chapters 947 and 948, Florida Statutes, are expected to adhere to the Specialty Guidelines for Forensic Psychologists in addition to the American Psychological Association's Ethical Principles for Psychologists and Code of Conduct.

Thank you again for all you do for Floridians and the psychologists who serve them. Thank you for considering these comments and suggestions.

Sincerely,

Gregory DeClue, Ph.D., ABPP

[20] Or 30, or 50, or 150.