**Colorado Sex Offender Management Board (SOMB)**

**Proposed Language Regarding Clients who have Filed an Appeal**

***Standards and Guidelines for the Assessment, Evaluation, Treatment and Behavioral Monitoring of Adult Sex Offenders***

**Approved by the SOMB on September 20, 2019**

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3.000 Standards of Practice for Treatment Providers

* 1. ***Clients who Have Filed an Appeal of their Conviction or Sentence***

Where a court or the parole board has ordered a client to participate in treatment, and the client has subsequently filed a direct or post-conviction appeal of the sex crime conviction, the client may assert a right against self-incrimination such that the client cannot comply with certain requirements outlined in the SOMB Standards and Guidelines (see section 3.160). In such cases, the treatment provider shall:

1. Obtain verification that a direct, or post-conviction appeal, or post-conviction motion has been filed
2. Determine if a Use Immunity agreement has been requested by the client or denied by the prosecuting attorney (see Appendix xx for additional information regarding Use Immunity – Note, this Appendix is still being revised).
   1. If a Use Immunity agreement has been offered by the prosecuting attorney, the *Standards and Guidelines* shall be followed as written.
   2. If a Use Immunity agreement has been denied by the prosecuting attorney, treatment may be modified to include postponement of treatment work regarding the crime of conviction until such time the appeal has been concluded. This may include:
      1. Not discussing the crime of conviction
      2. Not completing clarification work specific to the crime of conviction

The treatment provider shall require the client to adhere to all other components of treatment per these *Standards and Guidelines.* The treatment provider shall also notify the Application Review Committee (ARC) of the SOMB regarding the modification and submit updates regarding the status to ARC every six (6) months.

* 1. If a use immunity agreement has not been requested or there is no verification of whether or not a Use Immunity agreement has been offered, the treatment provider shall submit a variance to the SOMB prior to modifying the requirements of treatment outlined in these *Standards and Guidelines.*

*Discussion: Clients who are appealing the sex crime conviction can still benefit from participation in the sexual behavior disclosure process, and discuss behaviors unrelated to the conviction. Clients may also be able to participate in the sexual history polygraph process, excluding the crime of conviction, if determined to be appropriate to do so by the polygraph examiner and the CST.*

It is important to note that unless the appeal is upheld (conviction overturned) a client cannot fully progress and successfully complete treatment until they have met all the required components of sex offense-specific treatment as outlined in section 3.160.

If a Use Immunity agreement is in place, the treatment provider shall treat the client in accordance with these *Standards and Guidelines*, including discussion of the crime of conviction.