

## Appendix D

This Appendix is designed for listed Domestic Violence Offender Management Board (DVOMB) Approved Providers (hereafter referred to as Providers) pursuant to Section 16-11.8-103, C.R.S., as well as those who have filed an Intent to Apply for listing status with the Domestic Violence Offender Management Board (DVOMB). The provisions of this Appendix constitute the regulatory processes of the DVOMB related to applications, listing, denial of placement, complaints, appeals and other administrative actions implemented to determine an individual's compliance with the *Standards*.

The Director of the Division of Criminal Justice (DCJ) may suspend or modify any of these procedures in the interest of justice to avoid irreparable harm to crime victims or to the citizens of Colorado. If the situation warrants, the DVOMB may exercise the option of seeking guidance from the Office of the Attorney General for possible legal action.

### I. LISTING STATUS AS A PROVIDER

- A. This Appendix applies to DVOMB Approved Providers who are listed in the following categories:
  1. New Applicant Status
  2. Provisional Level Provider Status
  3. Entry Level Provider Status
  4. Full Operating Level Provider Status
  5. Domestic Violence Clinical Supervisor Status
  6. Specific Offender Population Status
  7. Not Currently Practicing Status
- B. Providers not on the DVOMB approved provider list, including any provider who is denied placement or removed from the Provider List, shall not provide any treatment, evaluation, or assessment services pursuant to statute in Colorado to court ordered domestic violence offenders. No referral source shall use any provider not on the Provider List, denied placement or removed from the provider list per Section 16-11.8-104, C.R.S.
- C. Confidentiality of DVOMB Files - Information contained in the DVOMB files, including application materials for applicants, Providers, and those who have filed an Intent to Apply are considered confidential and are not available to the public. This includes background investigations, criminal history checks<sup>1</sup>, school transcripts, letters of recommendation, trade secrets, confidential commercial data including applicant forms created for business use, curriculum developed for the business and clinical evaluations. Any information that, if disclosed, would interfere with the deliberation process of the Application Review Committee (ARC) of the DVOMB is also subject to this policy. The Colorado Open Records Act applies to other materials (Section 24-72-201, C.R.S.). This policy is not applicable

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<sup>1</sup> According to the Colorado Bureau of Investigations (CBI), the Division of Criminal Justice (DCJ) may provide a copy of the Applicant's/Provider's CBI report to the Applicant/Provider by postal mail or in person at no charge. However, DCJ is not authorized to release a copy of an Applicant's/Provider's Federal Bureau of Investigations (FBI) report. The Applicant/Provider must request a copy of this record directly from the FBI.

to Domestic Violence Clinical Supervisors who have entered into a contractual agreement with a supervisee which grants access to their confidential DVOMB file.

*The DVOMB and ARC shall have a quorum present or accounted for via teleconference for all decisions that require a vote. ARC members will recuse themselves from DVOMB appeal decisions that require a vote.*

D. Maintenance of the DVOMB Approved Provider List

1. DVOMB staff shall maintain Provider List on the DCJ website. Paper copies will be provided and distributed upon request.
2. The DVOMB will update, publish, and notice any changes to a Provider's status on the Provider List in accordance with Section 16-11.8-103(4)(c), C.R.S.
3. Individuals on the provider list shall notify the DVOMB in writing within 10 calendar days of any arrest, conviction, nolo contender plea, or deferred judgment (other than a traffic violation of 7 points or less) for a municipal ordinance violation, misdemeanor, felony, and/or the commencement of any civil dispute involving an underlying factual basis of domestic violence. The Colorado Bureau of Investigation (CBI) will notify the DVOMB if a Provider is held or arrested and then fingerprinted. The DVOMB will consider such information, including the Provider's proper notification of the DVOMB, in deciding whether to take administrative action regarding a Provider's approval status.

II. APPLICATIONS FOR LISTING STATUS

The purpose of the application process is to allow for applicants to demonstrate their individual competencies, qualifications, and abilities toward working with court ordered domestic violence offenders. Applicants must demonstrate compliance with the Standards through any application. There is an application associated with each listing status that must be submitted to the ARC prior to approval being granted.

A. Types of Applications

1. New Applications - Applicants who have never been on the DVOMB Approved Provider List, are seeking placement at a specified approval level, and whom have completed an intent to apply.
2. Additional Applications - Applicants who have been approved on the DVOMB Approved Provider List and who are seeking to move-up in status, seeking to become a DV Clinical Supervisor, or seeking approval to work with a specific offender population.
3. Renewal Application for Continued Placement - Applicants who are currently on the List and are seeking to remain as on the List.

4. Application for Replacement on the List - Applicants who are not currently on the List, but who were formerly on the List and are requesting re-placement on the List.

B. General Requirements for Applications

1. Provision of Services - New applicants intending to work towards becoming an Approved Provider shall submit an Intent to Apply Application, prior to accumulating co-facilitation hours. During the application process, the applicant is not presumed to be approved nor identified the DVOMB Approved Provider List for the status the applicant is seeking.
2. Documentation - All information requested in the application shall be submitted. Failure to comply with the application requirements will result in the denial of the application or continued placement for a specific listing status on the Provider List.
3. Time Limits - With exception to renewal applications, all applications automatically expire after eight months from the initial date of the ARC initial review. If the ARC is experiencing a delay in processing an application, an extension may be granted to the applicant on a case-by-case basis.
4. Requests for Extensions - Applicants may request an extension for any new, additional applications, or applications for replacement prior to the eight-month expiration of an application or before the due date of a renewal application. Requests for an extension by an applicant shall demonstrate in writing the need for an extension. For renewal applications, the required fee must be submitted with a request for extension.
5. Fees - The DVOMB assesses fees to cover the costs of processing applications. Refer to *"The Application Fee Schedule"* for the fee schedule for each listing status. Application fees are non-refundable and may not be transferred to another individual, but may be used as payment for other DVOMB functions on a case-by-case basis.
  - a) Application Fees - Pursuant to Section 16-11.8-103(4)(b)(III), C.R.S., the DVOMB may assess a fee to a person who applies for applications seeking placement on the Provider List not to exceed \$300 per application to cover the costs associated with the initial application review, the renewal process, and other costs associated with administering the program.
  - b) Fingerprint Fees - All applicants must use the fingerprint cards that are supplied by the DVOMB and must submit a money order made payable to the "Colorado Bureau of Investigations" to cover the costs for conducting the criminal history check.

C. Continued Placement Requirements

1. Renewal Application - All Providers who are currently on the Provider List, including Not Currently Practicing Status, shall submit a renewal application every two years in order to maintain placement on the Provider List. All Providers will be advised 60 days in advance of the renewal application deadline.
2. Application for Replacement - Providers involuntarily removed from the Provider List shall submit an Application for Replacement at the Entry Level for a period of least six months before becoming eligible to apply for Full Operating Level. This provision does not apply to Providers who were involuntarily removed from the Provider List solely as a result of the expiration of a DORA license, registration, or certification, so long as the provider applies for replacement when current with DVOMB renewal.

**III. TYPES OF ACTIONS RELATED TO APPROVAL AND LISTING STATUS**

- A. Approval - The ARC has determined that the applicant or Provider has met the minimum requirements to provide services to court ordered domestic violence offenders in Colorado and will be eligible to receive referrals by appearing on the Provider List.
- B. Modified Approvals - The ARC has determined that the applicant or Provider has NOT met the minimum requirements to provide services to court ordered domestic violence offenders in Colorado, but can provide some specific services.
- C. Denial - The ARC has determined that the applicant has NOT met the minimum requirements to provide services to court ordered domestic violence offenders in Colorado. The applicant is denied placement on the Provider List and shall not provide services in Colorado to court ordered domestic violence offenders.
- D. Voluntary Removal - The Provider has requested to be removed from the Provider List. Upon removal, services shall not be provided to court ordered domestic violence offenders in Colorado by the requesting individual.
- E. Involuntary Removal - Based on the determination of the ARC, an Approved Provider is denied continuing placement on the Approved Provider List and shall not provide any services in Colorado to court ordered domestic violence offenders upon the effective date of removal.
- F. Reduction in Status - Based on the determination of the ARC, a Provider's status is reduced (e.g., Domestic Violence Clinical Supervisor reduced to a Full Operating Provider) for a period of time and subject to the requirements of that approval level upon the effective date of the reduction.
- G. Not Currently Practicing - A Provider remains on the Provider List, but is not providing any of the following services: court-ordered domestic violence offender treatment

including coverage, evaluations, and peer consultation or clinical supervision. The Not Currently Practicing status may be requested by the Provider at any time.

#### **IV. BASIS FOR ARC ADMINISTRATIVE ACTION REGARDING DENIAL, REDUCTION, OR REMOVAL FROM THE PROVIDER LIST**

The DVOMB reserves the right to deny, reduce, or remove placement on the Provider List for any specific listing status to any applicant or Provider under these Standards. Reasons for denial, reduction, or removal include, but are not limited to:

- A. The ARC determines that the applicant or Provider does not demonstrate the qualifications required by these Standards;
- B. The ARC determines that the applicant or Provider is not in compliance with the Standards of practice outlined in these Standards;
- C. The applicant or Provider fails to provide the necessary materials for application as outlined in the application materials and the administrative policies and procedures;
- D. The ARC determines that the applicant or Provider exhibits factors (boundaries, impairments, etc.) which renders the individual unable to provide services to offenders;
- E. The ARC determines that the results of the background investigation, the references provided or any other aspect of the application process are unsatisfactory.
- F. The ARC determines that the overall work product submitted does not adequately demonstrate skills or competencies for the status being sought for by an applicant.

Those applicants or Providers who are denied, reduced, or removed from a specific listing status on the list will be provided with a copy of the DVOMB Administrative Policies. Administrative actions taken by the ARC regarding the listing status of a DVOMB Approved Provider does not constitute an action taken against the registration, licensure, or certification by the Department of Regulatory Agencies.

#### **V. REQUEST FOR RECONSIDERATION AND APPEAL PROCESS**

Any applicant or DVOMB Approved Provider under these Standards who disagrees with a decision made by the ARC regarding denial, reduction, or removal from the Provider List related to a particular status or approval may exercise two administrative options in the following order:

1. Request for reconsideration by the ARC; and
2. Appeal any final decision made by the ARC to the DVOMB following a request for reconsideration.

Requests for reconsideration and appeals are limited to complaints, denial for placement on the Provider List for a specific listing status, the involuntary removal from the Approved

Provider List, or for a reduction is approval status.

A. Request for Reconsideration of the ARC

1. Submitting A Request - Applicants or Providers must submit a request for reconsideration in writing to the DVOMB within 30 days from the date of receipt of the notification letter. A request for reconsideration shall include supporting documentation that meets one of the following criteria:
  - The documentation relied upon by the ARC was in error;
  - There is new documentation relevant to the decision of the ARC was not available at the time for consideration;
  - The ARC lacked sufficient grounds to support the decision made;
  - The ARC failed to follow the DVOMB Administrative Policies.
2. ARC Review - The ARC will perform a subsequent review of its initial decision to deny, reduce, or remove an applicant or Provider from a specific listing status. The ARC will first determine if the request for reconsideration satisfactorily addresses the criteria for review. If the ARC determines the request for reconsideration meets criteria, then the ARC will deliberate and consider the documentation submitted. Upon review the ARC can vote to:
  - a) Uphold the original decision to deny, reduce, or remove with or without modifications. This final decision by the ARC can be appealed to the DVOMB.
  - b) Modify the original decision to deny, reduce, or remove. This final decision by the ARC can be appealed to the DVOMB.
  - c) Reject the original decision to deny, reduce, or remove.
3. Decision Notification - ARC communication of decisions will be provided in writing within 21 days after the ARC decision is made.

B. Appeal to the DVOMB

1. Submitting a Request to Appeal the Decision of ARC - Applicants or DVOMB Approved Providers must submit a request to appeal in writing to the DVOMB within 30 days from the date of receipt of the notification letter to uphold or modify the ARC decision following the request for reconsideration. A request to appeal shall include supporting documentation and meet the following criteria:
  - The documentation relied upon by the ARC was in error;



- There is new documentation relevant to the decision of the ARC was not available at the time for consideration;
  - The ARC lacked sufficient grounds to support the decision made;
  - The ARC failed to follow the DVOMB Standards or policy in making its decision.
2. Parties affected by the appeal may include an applicant, a Provider, or a complainant. All parties affected by an appeal will receive notification of the date, time and place of the appeal, along with the deadline for submission of additional materials. These additional materials must be limited to 10 pages and 25 copies must be received by the DVOMB 60 days prior to the hearing. Materials received after the deadline or not prepared according to these instructions will not be reviewed at the scheduled appeal hearing.
3. DVOMB Review - The DVOMB will only consider information specific to the finding outlined by the ARC in the notification letter.
- a) Copies of the appeal materials (subject to redactions or other protections to comply with statutorily contemplated confidentiality concerns) considered by ARC will be provided to the DVOMB and parties involved at least 30 days prior to the hearing and the parties and the DVOMB are expected to make every effort to maintain confidentiality of the materials.
  - b) Either party may request alternate electronic means to meet with the DVOMB in lieu of appearing in person. The request must be made in writing at the time of the request for the appeal.
  - c) Appeals will be scheduled in conjunction with regular DVOMB meetings. The appellant must confirm, in writing, their ability to attend the scheduled appeal; failure of the appellant to do so may result in the appeal being dismissed. The DVOMB staff and the DVOMB chairperson will jointly review requests for an extension or to reschedule an appeal. Parties will be notified verbally or in writing, as applicable, regarding the decision on the request for an extension or to reschedule. Requests will be reviewed based on reasonable causes.
  - d) Parties involved may bring one representative with them. Appeal hearings (in person or via electronic means) will be 80 minutes long: 20 minutes for presentation by the ARC; 20 minutes for a verbal presentation by the complainant; 20 minutes for the identified provider; and 20 minutes for questions and discussion by the Board. Applicable time periods may be modified upon request, by either party or a DVOMB member, followed by a motion by a DVOMB member and a vote on the motion.
  - e) There must be a quorum of the DVOMB to hear an appeal. ARC members count towards establishing a quorum, but must abstain from voting on the appeal per DVOMB By-laws.

- f) The DVOMB will consider appeals in open hearing and audio record the proceedings for the record unless certain material must be considered by the DVOMB in executive session pursuant to Section 24-6-402(3)(a)(III), C.R.S. Any vote will occur in open session.
  - g) The DVOMB must vote on the original findings of the ARC. They must vote in one of the following three ways:
    - i. Uphold the decision of the ARC.
    - ii. Reject the decision of the ARC.
    - iii. Uphold the decision of the ARC and modify the proposed administrative action taken by the ARC.
4. Decision Notification - The results of the appeal will be documented via letter sent to all parties within 30 days after the date of the appeal hearing.
- a) Founded complaint records will be retained for 20 years per the Division of Criminal Justice Records Retention Policy.
  - b) The appeal process is the sole remedy for an applicant or Provider who is denied, reduced, or removed from a specific listing status on the Provider List, or resolution of a complaint(s). The decision of the DVOMB is final.

## VI. STANDARDS COMPLIANCE REVIEWS

The purpose of Standard Compliance Reviews (SCR) is to ensure that Providers are adhering to all applicable *Standards for Treatment with Court Ordered Domestic Violence Offenders* and to identify innovative and exceptional practices in areas related to domestic violence offender evaluation, assessment, and treatment. The ARC may conduct SCRs at any time. Once a Provider has successfully completed an SCR, he or she will be exempt from random selection for six years.

### A. Types of Standard Compliance Reviews:

1. *For Cause* - The ARC may vote to initiate a For Cause SCR when notified that a Provider is not following a requirement of the Standards. The Provider will be given the opportunity to demonstrate compliance with the Standards through documentation submitted to the ARC during the SCR process.
  2. *Random* - The ARC conducts periodic SCRs on a randomized basis to determine if a Provider is following the requirements of the Standards. The DVOMB Approved Provider will be given the opportunity to demonstrate compliance with the Standards through documentation submitted to the ARC during the SCR process.
- B. Provider Notification - Providers will receive a notification letter for being selected for a SCR. The notification letter will also include an instructional packet requesting documentation for the ARC. All materials must be submitted by the Provider by the deadline identified in the notification letter.



- C. SCR Review - The ARC will review the completed SCR packet and any other relevant information concerning the DVOMB Approved Provider in order to identify any Standard violations, innovations, or best practices.
  
- D. SCR Outcomes - The ARC will notify the DVOMB Approved Provider in writing of the SCR outcome within 21 days of the ARC review. The SCR will identify at least one or more of the following outcomes:
  - 1. The Provider is approved for continued placement.
  - 2. An innovative practice is identified as a best practice.
  - 3. Standards violations were founded and the Provider is offered a Compliance Action Plan (CAP) in lieu of being reduced in status or removed from the Provider List for a specific listing status.
  - 4. Standards violations are found to be pervasive or egregious enough that the ARC determines remediation through a CAP is unwarranted and the Provider is, therefore, removed from the Provider List pursuant to Section IV of this policy. Concerns related to Standards violations may also result in the submission of a formal complaint to the Department of Regulatory Agencies (DORA), per Section XI of this policy.

## VII. VARIANCES

The purpose of the Standards Variance Process is to allow for a DVOMB Approved Provider or applicant to seek approval for a temporary suspension of a specific Standard. The reasons for suspending a requirement of the Standards vary, but modifications to requirements of the Standards are limited to rare circumstances that are reviewed on a case-by-case basis. Variance requests can be related to the treatment for an offender or to request a modification to the approval process.

- A. Submitting A Variance Request - A Provider who is unable to comply with the requirements of the Standards may submit a variance proposal to the ARC for review. The proposal should be identified as a Standard Variance Request and must include the following components:
  - 1. Identification of each Standard that is subject to the variance;
  - 2. An overview of the unusual circumstances and documentation why compliance with the Standards is not possible;
  - 3. A plan developed for the proposed variance of outlining the following:
    - a) Victim safety including re-offense and lethality considerations
    - b) Enhanced offender containment strategies

- c) Ongoing assessment of offender risk and progress
  - d) Timeframe
  - e) Written verification of MTT consensus
- B. Preliminary Review - DVOMB Staff and at least one ARC member will perform an initial review of the request. If the request is acceptable, they will authorize preliminary approval of the plan until the ARC can conduct a formal review at the next meeting. If the request is not acceptable, the ARC member and the Staff will work with the Provider to modify and address any questions or concerns. Variances that are not granted preliminary approval will be scheduled for formal review by the ARC at the next meeting. The Provider will be notified in writing of the decision to approve or deny preliminary approval of the variance.
- E. ARC Review - The ARC will review the Standards Variance Request. If preliminary approval was granted, the ARC may uphold that decision or modify the variance. The ARC will ratify the Standards Variance Request and create a plan for conducting periodic reviews and any necessary documentation required for those reviews. The ARC has the authority to set forth specific program conditions during the time frame of the variance request.

## VIII. TECHNICAL ASSISTANCE

Questions pertaining to the application and interpretation of the Standards can be directed toward the DVOMB staff who are available to provide clarification and support as needed and applicable on a case by case basis. DVOMB Approved Providers and other individuals who use the Standards are encouraged to contact DVOMB staff with questions when technical issues arise.

## IX. COMPLAINTS

*In the provision of services to court ordered domestic violence offenders, actions by an individual that violate the Standards or any general practice requirements of their certification, license, or registration, can be reported as a formal complaint to the DVOMB. Formal complaints received by the DVOMB are reviewed by the ARC and forwarded to the Department of Regulatory Agencies (DORA) for processing. Formal complaints can be made against a DVOMB Approved Provider or against someone who has provided court ordered domestic violence offender services without DVOMB approval per Section 16-11.8-104, C.R.S.*

- A. When a complaint is made against a Provider, the complaint shall be made in writing to the DVOMB using the most current forms and signed by the complainant. Upon receipt, DVOMB staff will notify the complainant in writing of the receipt of the complaint. All complaints will be subject to an initial administrative review by DVOMB staff to determine if the complaint process has been followed protocol. Insufficient or improper complaint filings may not be accepted for review and the DVOMB staff will provide written notice to the complainant.

- B. All complaints will be forwarded for investigation and review to DORA pursuant to Section 16-11.8-103(4)(IV)(b), C.R.S. Concurrently, the DVOMB will review the complaint for potential action pursuant to Section 16-11.8-103(3)(D), C.R.S. DVOMB staff, in consultation with the ARC, will provide input to DORA regarding any alleged violations of the *Standards*. Any complaints sent directly to DORA regarding Providers will also be reviewed by the DVOMB staff, in consultation with the ARC. The appropriate DORA mental health board will determine the complaint either as founded or unfounded.
1. Unfounded Complaints - If DORA determines the complaint as unfounded, the DVOMB will notify the complainant in writing. The outcome of an unfounded complaint will result in no formal action taken by the ARC and the Provider's file will not reflect any documentation regarding the complaint.
  2. Founded Complaints - If DORA determines the complaint as founded, the DVOMB will notify the complainant in writing. Following the disposition issued by DORA, the ARC may take administrative action in addition to any conditions or stipulations administered by DORA which may include possible options for remediation such as a Compliance Action Plan (CAP) and/or changes to a Provider's listing status. Any founded complaint in one listing status shall result in a review of the Provider's other approvals which may subsequently impact the listing status of other approval categories (e.g., a founded complaint against a Provider approved to work with female offenders may impact the Provider's approval with same-sex offenders).
- C. If the ARC determines that remediation is not possible and votes to remove the Provider from the Provider List, referral sources will be notified following the procedures identified in Section IV of this policy.