



California Sex Offender Management Board
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Addendum to CASOMB Agency Certification Requirements: Lack of Capacity to Participate in Treatment

Purpose: The purpose of this document is to provide an addendum to the Agency Certification Requirements that provides the steps that a treatment provider/agency should take when an individual's capacity to participate in treatment is in question. This guideline addresses the responsivity principle of the risks-needs-responsivity model, which indicates treatment interventions should match the person's current capabilities and learning style.

California statute requires that individuals registered pursuant to Penal Code Section 290, shall successfully complete a sex offender management program, following standards developed by the California Sex Offender Management Board (PC 290.09). At the time the Statute was written, capacity of the individual to participate in treatment was not addressed. CASOMB recognizes in certain rare circumstance that an individual does not have the capacity to participate in sex offense specific treatment due to significant diagnosed medical or mental issues.

This addendum addresses treatment completion alternatives for those who cannot currently complete treatment due to mental or medical capacity. CASOMB is addressing this circumstance, by developing standards related to the capacity of the individual and alternative routes for discharge from sex offender treatment. Lack of capacity to participate in treatment does not impact an individual's status on probation or parole. They will continue to be supervised on probation or parole, as directed by the court.

Definition(s):

Capacity to participate in treatment includes the cognitive ability to engage in the treatment process, which includes the ability to take in, process, and retain new information. Lack of capacity to participate in treatment may result from a medical or cognitive disability, and may be acute or chronic. Capacity may be limited by things like dementia, brain impairment, psychosis, terminal illness or other similar issues.

Accommodations: Most people with diagnosed medical and cognitive conditions can participate in treatment with individualized accommodations to address specific needs. Accommodations may include individual treatment, reduced frequency and/or duration of services, meeting with significant support members, or using neurocognitive memory techniques to accommodate learning styles. The accommodations should be reflected in the individualized treatment plan.

1. Assessment:

- A. Cognitive impairment may not be present at the outset of treatment, but may present during the course of treatment. Capacity to participate in sex offender treatment should be evaluated at the outset of treatment and when symptoms are present.
- B. If an individual is deemed not to have the capacity to participate in treatment, then they should be re-evaluated annually or as needed.
- C. For chronic and/or progressive issues, such as age related dementia, Alzheimer's disease, traumatic brain injury, or similar issues, a medical doctor must diagnose the disorder, including the cognitive impact of the disorder, and course of medical treatment. The certified treatment provider should incorporate the medical doctor's results into their evaluation. Neuro-psychological evaluations can supplement the medical doctor's report.
- D. The evaluation and recommendations should be provided to the supervising agent within 30 days of completion.
- E. The recommendations should be discussed with the supervising agent, and a course of action should be agreed upon. Recommendations may include:
 - 1) Accommodations or modified treatment;
 - 2) Temporary suspension of sex offender specific treatment; or
 - 3) A recommendation for discharge from treatment.

2. Acute Capacity Deficits:

- A. If an individual has an acute medical issue, such as hospitalization that negatively impacts their ability to attend treatment either in person or virtually, then treatment may be suspended until they are able to return to treatment. The individual should provide documentation from the hospital to support the required medical treatment.
- B. When an individual is assessed to have acute cognitive issues, such as active psychosis, a stroke resulting in mild cognitive deficits, or other similar issues. Then restoring competence should be prioritized. During this time, sex offender specific treatment may be temporarily suspended, return to treatment is expected once the matter is mitigated. Treatment accommodations or modifications may be a step toward full participation in treatment.

3. Chronic Conditions:

- A. In rare situations, some individuals may not be able to participate in and/or complete sex offense specific treatment due to a chronic medical or cognitive impairment. If an assessment as described above finds that the individual does not have the capacity to meaningful participate in sex offense specific treatment with accommodations, then they shall be discharged from sex offense specific treatment. Documentation shall be provided to the probation officer or parole agent reflecting this assessment.

- B. In these situations, the supervising agent has the option to request the court remove the requirement to successfully complete treatment from their terms and conditions of probation or parole.