



Title 3, Occupations Code, Chapter 110

**Title 22. Examining Boards
Chapter 810. Council on Sex Offender Treatment**

Effective April 24, 2011

STATUTORY AUTHORITY

Pursuant to Texas Occupations Code, §110.158, requires the council to adopt rules consistent with this chapter §110.159, and Texas Health and Safety Code, §841.141, which provides the council with the authority to adopt rules consistent with the purposes of the chapter.

- Subchapter A. Licensed Sex Offender Treatment Providers.
- Subchapter B. Criminal Background Check.
- Subchapter C. Standards of Practice.
- Subchapter D. Code of Professional Ethics.
- Subchapter E. Civil Commitment General Provisions.
- Subchapter F. Civil Commitment.
- Subchapter G. Civil Commitment Program Specialist and/or Case Manager and Treatment Provider Duties and Responsibilities
- Subchapter H. Civil Commitment Review
- Subchapter I. Petition for Release
- Subchapter J. Miscellaneous Provisions.
- Subchapter K. Criminal Background Check on Potential Employees
- Subchapter L. Early Termination for Certain Persons' Obligation to Register

SUBCHAPTER A. LICENSED SEX OFFENDER TREATMENT PROVIDERS.

§810.1. Introduction.

(a) Purpose. The provisions of this chapter govern the procedures relating to the licensing of individuals who assess and treat adult sex offenders and juveniles with sexual behavior problems in the State of Texas.

(b) Construction. These sections cover definitions, licensing criteria for application, fees, continuing education, complaints, general procedures, standards of practice, and policies of the Council on Sex Offender Treatment.

(c) History. The Council on Sex Offender Treatment (council) was created by the 68th Legislature (Senate Bill 84) in 1983 under the name of the Interagency Council on Sex Offender Treatment and its Act is codified in Occupations Code, Chapter 110. The council was designed to coordinate effective assessment and treatment strategies to reduce recidivism of sex offenders and to enhance public safety.

§810.2. Definitions.

(a) General Definitions.

(1) Act--Texas Occupations Code, Chapter 110, relating to the Council on Sex Offender Treatment.

(2) Biennium--Every 2 years.

(3) Case Management--The coordination and implementation of activities directed toward supervising, treating, and managing the adult sex offender or juvenile with sexual behavioral problems.

(4) Client(s)--Used interchangeably with adult sex offenders and juveniles with sexual behavior problems.

(5) Council--The Council on Sex Offender Treatment.

(6) Custodian--The adult who is responsible for an adult or child.

(7) Fiscal Year--September 1 through August 31.

(8) Guardian--The person who, under court order, is the guardian of the person of the adult or the child, or the public or private agency with whom the adult or juvenile has been placed by a court.

(9) HIPAA--Health Insurance Portability and Accountability Act, Title 45, Code of Federal Regulations (CFR), Parts 160 and 164.

(10) Juvenile Court--A court designated under the Family Code, Title 3, Juvenile Justice Code, §51.04, to exercise jurisdiction over the proceedings.

(11) Licensee--A treatment provider licensed by the council and who is recognized based on training and experience to provide assessment and treatment to adult sex offenders and/or juveniles with sexual behavioral problems who have been convicted, adjudicated, deferred, or referred by a State agency or court.

(12) Mental Health or Medical License--A person licensed in Texas to practice as a physician, psychiatrist, psychologist, psychological associate, provisionally licensed psychologist, licensed professional counselor, licensed professional counselor intern, licensed marriage and family therapist, licensed marriage and family associate, licensed clinical social worker, licensed master social worker under a TSBSWE's approved clinical supervision plan, or advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, and who provides the treatment of sex offenders and/or juveniles with sexual behavior problems.

(13) Reciprocity--The granting of an official license based on the current status of licensure in a different jurisdiction. Reciprocity is granted based on the formal written agreement between the council and regulatory body in the other jurisdiction.

(14) Reportable Conviction or Adjudication--A conviction or adjudication, regardless of the pendency of an appeal.

(15) TSBSWE--The Texas State Board of Social Work Examiners.

(b) Treatment Definitions.

(1) Ability to Give Consent--As stated in Penal Code, §1.07, "assent in fact whether expressed or not," and as recognized under Family Code, §2.102 and §2.103.

(2) Accountability--Accurate attributions of responsibility, without distortion, minimization, or denial.

(3) Adaptive Behavior--The effectiveness with which a person meets the standards of personal independence and social responsibility reasonably expected of the person's age, sex, and cultural group (Health and Safety Code, Chapter 614).

(4) Aversive Conditioning for Deviant Arousal--Behavioral techniques that involve pairing deviant sexual arousal with a noxious stimulus in order to modify deviant sexual arousal.

(5) Clarification--The process designed for the primary benefit of the victim, by which the adult sex offender or juvenile with sexual behavior problems clarifies that the responsibility for the assault/abuse resides with the adult offender or juvenile and addresses the harm done to the victim and the family.

(6) Collateral Victims--Relatives or other persons closely involved with the primary victim and client who are severely impacted emotionally or physically by the trauma suffered by the victim.

(7) Containment Approach--A method of case management and treatment that seeks to hold adult sex offenders and juveniles with sexual behavioral problems accountable through the combined use of both internal and external control measures. A containment approach requires a philosophy that values public safety, victim protection, and reparation for victims as the paramount objective and the integration of a collection of attitudes, expectations, laws, policies, procedures, and practices.

(8) Containment Model--The communication, cooperation, coordination, and exchange of information between, district attorneys, judges, community supervision officers, parole officers, juvenile probation officers, juvenile detention officers, institutional staff, correctional officers, case managers, child protective service workers, mental health case workers, law enforcement, polygraph examiners, victim's therapist, victim advocates, treatment providers, school officials (if applicable), family members, guardians, or custodians (if applicable), and other support persons to enhance community protection.

(9) Denial--The refusal or inability to acknowledge in whole or in part sexually deviant arousal, sexually deviant intent, and/or sexually deviant behavior.

(10) Deviant Sexual Arousal--A pattern of physiological sexual responses to inappropriate fantasies, thoughts, objects, animals, and/or persons that may or may not precede a sexual act.

(11) Deviant Sexual Behavior--A sexual act that meets one or more of the criteria defined by state law.

(12) Developmental Disability--A severe and chronic disability that is attributable to a mental or physical impairment or a combination of physical and mental impairments, is manifested before age 22, is likely to continue indefinitely, and results in substantial functional limitations in three or more of the major life activities (Health and Safety Code, Chapter 614).

(13) Dynamic Risk Factors--Risk factors that can change over time and are important targets for treatment and supervision.

(14) Empathy--The ability to identify and understand another person's feelings, situation, or ideas.

(15) Grooming--The process of desensitizing and manipulating the victim(s) and/or others for the purpose of gaining an opportunity to commit a sexually deviant act.

(16) Inappropriate Sexual Behavior--Any sexual behavior outside the age and development for that individual.

(17) Juvenile with Sexual Behavior Problems--A person who at the time of the offense:

(A) is 10 years of age or older and under 17 years of age and who has been adjudicated of committing a sex crime under the laws of a state, the United States, the Uniform Code of Military Justice, or any foreign country laws; or

(B) is 17 years of age or older and under 18 years of age and on probation who has been adjudicated of committing a sex crime under the laws of a state, the United States, the Uniform Code of Military Justice, or any foreign country laws before becoming 17 years of age.

(18) Mental Illness--An illness, disease, or condition, other than epilepsy, senility, alcoholism, or mental deficiency, that substantially impairs a person's thoughts, perception of reality, emotional processes, or judgment, or grossly impairs behavior as demonstrated by recent disturbed behavior (Health and Safety Code, Chapter 571).

(19) Mental Retardation--A significantly sub-average general intellectual functioning that is concurrent with deficits in adaptive behavior and originates during the developmental period (Health and Safety Code, §591.003).

(20) Non-Deceptive Polygraph Examination Result-- A non-deceptive polygraph examination result must include no significant criteria normally associated with deception to the relevant questions. The examinee's salience should be focused on the comparison questions. Examiners will utilize an accepted numerical scoring system to ensure a non-deceptive result.

(21) Offense Sequence--The specific sequence(s) of thoughts, feelings,

behaviors, and events that may occur before, during, or after a sexual offense is committed.

(22) Penile Plethysmograph (PPG)--A diagnostic method to assess sexual arousal by measuring the blood flow (tumescence) to the penis during the presentation of sexual stimuli in a controlled setting by providing the identification of a clients' physiological arousal in response to sexual stimuli (audio/visual).

(23) Polygraph (Clinical) Examination--The employment of any instrumentation complying with the required minimum standards of the Texas Polygraph Examiner's Act and used for the purpose of measuring the physiological changes associated with deception. The following are descriptions of the four general types of polygraphs utilized:

(A) Instant Sexual Offense Polygraph--addresses the offense of conviction in conjunction or adjudication with the official version;

(B) Sexual History Polygraph--addresses the complete sexual history of the client up to the instant offense;

(C) Maintenance Polygraph--addresses compliance with conditions of supervision and treatment; and

(D) Monitoring Polygraph--addresses whether the client has committed a "new" sexual offense.

(24) Polygraph Examiner--A person with a current license approved by the Texas Department of Licensing and Regulation and who meets minimum criteria to be listed by the Joint Polygraph Committee on Offender Testing (JPCOT) and/or the American Polygraph Association (APA) Post-Conviction Sex Offender Testing (PCSOT) Standards for polygraphing adult sex offenders and juveniles with sexual behavior problems.

(25) Reoffense Prevention Plan--Is a multilevel plan assists the client in developing strategies to addresses the risk factors or precursors that have typically preceded sexual offenses.

(26) Safety Plan--A written document derived from the process of planning for community safety. The document identifies potential high-risk situation and addresses ways in which situations will be handled without the adult sex offender or juvenile placing others at risk.

(27) Sex Offender--A person who:

(A) is or has been convicted or adjudicated of a sex crime under the laws of the State of Texas, any other state or territory, or under federal law, including a conviction of a sex crime under the Uniform Code of Military Justice;

(B) is or has been awarded deferred adjudication for a sex crime under the laws of the State of Texas, any other state or territory, or under federal law; or

(C) is or has been convicted, adjudicated, or received deferred adjudication for a sexually motivated offense which involved the intent to arouse or gratify the sexual desire of any person immediately before, during, or immediately after the commission of an offense.

(28) Sex Offender Specific Treatment--Treatment modalities that are based on empirical research with regard to favorable treatment outcomes and are professionally accepted in the field of sex offender treatment and the treatment of juveniles with sexual behavior problems. Offense specific treatment means a long-term comprehensive set of planned treatment experiences and interventions that modify sexually deviant thoughts, fantasies, and behaviors and that utilize specific strategies to promote change and to reduce the chance of re-offending. Currently, the primary treatment modality is cognitive behavioral group treatment. Sex offender treatment does not include rehabilitation or clinical services provided in a criminal justice or juvenile justice institution as a part of the mainstream adjunct treatment programs.

(29) Static Risk Factors--Risk factors that are unlikely to change over time.

(30) Sub-Average General Intellectual Functioning--The measured intelligence on standardized psychometric instruments of two or more standard deviations below the age-group mean for the tests used (Health and Safety Code, §591.003).

(31) Successful Completion of Sex Offender Specific Treatment--May include but is not limited to admitting and accepting responsibility for all crimes, demonstrating the ability to control deviant sexual arousal, understanding sexual offense, increase in pro-social behaviors, increase in appropriate support systems, improved social competency, compliance with supervision, compliance with court conditions, increased understanding of victimization, no deception indicated on exit polygraphs, the indication of a non-deceptive examination result on the sex history polygraph, approved safety plans, approved reoffense prevention plans, successful completion of adjunct treatments (for example: anger management, substance abuse, etc.), and the demonstrated integration and practical application of the skills presented in treatment. Each of these issues regarding successful completion of treatment shall be addressed unless precluded by §810.65 of this title (relating to the Assessment and Treatment of Juveniles with Sexual Behavior Problems), §810.67 of this title (relating to the Assessment and Treatment Standards for Developmentally Delayed Clients), or unless a state agency is exempt from a specific licensing requirement. The Licensed Sex Offender Treatment Provider after collaborating with appropriate criminal/juvenile justice personnel determines the successful completion of treatment.

(32) Visual Reaction Time (VRT)--The measurement of sexual interest based on the relative amount of time spent looking at visual stimuli.

§810.3. License Required.

(a) A person shall not provide sex offender treatment or act as a sex offender treatment provider unless the person is licensed by the council. A person may not claim to be a sex offender treatment provider or use the title or an abbreviation that implies the person is a sex offender treatment provider unless the person is licensed under this chapter.

(b) The council shall maintain a list of licensees who meet the council's licensure criteria to assess and treat adult sex offenders and/or juveniles with sexual behavior problems. The council shall recognize the experience and training of treatment providers in the following licensure categories: "Licensed Sex Offender Treatment Provider", "Affiliate Sex Offender Treatment Provider", or "Provisional Sex Offender Treatment Provider".

(c) Sex offender treatment does not include rehabilitation or clinical services provided in a criminal justice or juvenile justice institution as a part of the mainstream adjunct treatment programs.

(1) Licensed Sex Offender Treatment Provider (LSOTP). To be eligible as a LSOTP, the applicant shall meet all of the following criteria:

(A) licensed in Texas to practice as a physician, psychiatrist, psychologist, licensed professional counselor, licensed marriage and family therapist, licensed clinical social worker, or advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner who provides services for the assessment and treatment of adult sex offenders and/or juveniles with sexual behavior problems. The mental health or medical license status shall be current and active:

(B) experience and training required as listed in clauses (i) - (ii) of this subparagraph:

(i) possess a minimum of 1000 documented and verified hours of clinical experience in the areas of assessment and treatment of sex offenders, obtained within a within the past 7-year period, and provide 1 reference letter from a licensed sex offender treatment provider or mental health professional who has actual knowledge of the applicant's clinical work in sex offender assessment and treatment; and

(ii) possess a minimum of 40 hours of documented continuing education training obtained within 3 years prior to the application date, in the specific area of sex offender assessment and treatment. Of the initial 40 hours training required, 30 hours shall be in the specific area of sex offender assessment and treatment. Ten hours shall be in sexual assault victim related training;

(C) submit a complete and accurate description of the applicant's treatment program on a form provided by the council;

(D) persons making initial application or renewing their eligibility for licensure shall adhere to Subchapter C. Standards of Practice and Subchapter D. Code of Professional Ethics to the extent the adherence does not conflict with other laws and shall comply with the following requirements:

(i) not have been convicted and/or adjudicated of any felony, or of any misdemeanor involving a sex offense or sexually motivated offense, nor have received deferred

adjudication for a sex offense, and/or required to register as a sex offender under Texas Code of Criminal Procedure, Chapter 62;

(ii) not have had licensure revoked or canceled by any professional licensing body;

(iii) submit to a criminal history background check. An applicant shall be required to submit a complete set of fingerprints on the card provided by the council with the application documents, or other information necessary to conduct a criminal history background check to be submitted to the Texas Department of Public Safety or to another law enforcement agency unless exempt under this section. Fingerprints shall be taken by a peace officer or a person authorized by the council and shall be placed on a form prescribed by the Texas Department of Public Safety; and

(iv) not have violated the Act or any rule adopted by the council;

(E) submit an application fee as defined in §810.5 of this title (relating to Fees);

(F) submit a copy of his or her mental health or medical license, as set out in subparagraph (A) of this paragraph, and indicated that the applicant's license is current and in good standing;

(G) sign the application form(s) and attest to the accuracy of the application information; and

(H) complete the process within 90 days of the application's receipt in the council office.

(2) Affiliate Sex Offender Treatment Provider (ASOTP). To be eligible as a licensed ASOTP, the applicant shall meet all of the following criteria:

(A) licensed in Texas to practice as a physician, psychiatrist, psychologist, psychological associate, provisionally licensed psychologist, licensed professional counselor, licensed professional counselor intern, licensed marriage and family therapist, licensed marriage and family associate, licensed clinical social worker, licensed master social worker under a TSBSWE's approved clinical supervision plan, or an advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner who provides services for the assessment and treatment of adult sex offenders and/or juveniles with sexual behavior problems. The mental or medical health license status shall be current and active;

(B) experience and training required as listed in clauses (i) - (iii) of this subparagraph:

(i) possess a minimum of 250 documented and verified hours of clinical experience in the areas of assessment and treatment of sex offenders and/or juveniles with sexual behavior problems, obtained within the past 7-year period, and provide 1 reference

letter from a licensed sex offender treatment provider or mental health professional who has actual knowledge of the applicant's clinical work in sex offender assessment and treatment;

(ii) be supervised by a LSOTP in accordance with paragraph (6)(A) - (D) of this subsection until LSOTP status is obtained and submit a copy of the LSOTP supervisor's license indicating that the applicant is current and in good standing; and

(iii) possess a minimum of 40 hours of documented continuing education training obtained within 3 years prior to application date, in the specific area of sex offender assessment and treatment. Of the initial 40 hours training required, 30 hours shall be in sex offender specific training. Ten hours shall be in sexual assault victim related training;

(C) submit a complete and accurate description of the applicant's treatment program on a form provided by the council;

(D) comply with paragraph (1)(D)(i) - (iv) of this subsection;

(E) persons making initial application or renewing their eligibility for licensure shall adhere to Subchapter C. Standards of Practice and Subchapter D. Code of Professional Ethics to the extent the adherence does not conflict with other laws;

(F) submit an application fee as defined in §810.5 of this title;

(G) submit a copy of the applicant's medical or mental health license as set out in subparagraph (A) of this paragraph, indicating the applicant is current and in good standing;

(H) sign the application form(s) and attest to the accuracy of the application information; and

(I) complete the process within 90 days of the application's receipt in the council office.

(J) After completing the required documented clinical and continuing education hours and depending upon the status of the licensee's mental or medical license, the ASOTP may be upgraded to a LSOTP. The licensee does not need to submit a new application if the ASOTP license is current. Licensees will be notified if there are any deficiencies.

(3) Provisional Sex Offender Treatment Provider (PSOTP). To be eligible as a licensed PSOTP, the applicant shall meet all of the following criteria:

(A) licensed in Texas to practice as a physician, psychiatrist, psychologist, psychological associate, provisionally licensed psychologist, licensed professional counselor, licensed professional counselor intern, licensed marriage and family therapist, licensed marriage and family associate, licensed clinical social worker, licensed master social worker under a TSBSWE's approved clinical supervision plan, or an advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner who provides

services for the assessment and treatment of adult sex offenders and/or juveniles with sexual behavior problems. The mental or medical health license status shall be current and active;

(B) experience and training required as listed in clauses (i) - (iii) of this subparagraph:

(i) possess 0 to 1000 documented and verified hours of clinical experience in the areas of assessment and treatment of sex offenders, obtained within the past 7-year period, and provide 1 reference letter from a licensed sex offender treatment provider or mental health professional who has actual knowledge of the applicant's clinical work in sex offender assessment and treatment;

(ii) supervised by a LSOTP in accordance with paragraph (6)(A) - (D) of this section until LSOTP status is obtained and submit a copy of the LSOTP supervisor's license, and indicated that the applicant is current and in good standing. A PSOTP applicant is exempt from supervision if the applicant is only lacking the CE requirements necessary to become a LSOTP; and

(iii) possess a minimum of 40 hours of documented continuing education training obtained within 24 months of the date of application, in the specific area of sex offender assessment and treatment. Of the initial 40 hours training required, 30 hours shall be in sex offender specific training. Ten hours shall be in sexual assault victim related training;

(C) submit a complete and accurate description of the applicant's treatment program on a form provided by the council;

(D) comply with paragraph (1)(D)(i) - (iv) of this subsection;

(E) persons making initial application or renewing their eligibility for licensure shall adhere to Subchapter C. Standards of Practice and adhere to Subchapter D. Code of Professional Ethics to the extent the adherence does not conflict with other laws;

(F) submit an application fee defined in §810.5 of this title;

(G) submit a copy of the applicant's medical or mental health license as set out in subparagraph (A) of this paragraph, indicating the applicant is current and in good standing;

(H) sign the application form(s) and attest to the accuracy of the application information; and

(I) complete the process within 90 days of the application's receipt in the council office.

(J) After completing the required documented clinical and continuing education hours, the PSOTP may be upgraded to the LSOTP or ASOTP license based on the number of completed hours and depending upon the status of the licensee's medical or mental health

license. The licensee does not need to submit a new application if the PSOTP license is current. Licensees will be notified if there are any deficiencies.

(4) Licensing Out-of-State Applicants/Reciprocity. The council may waive any prerequisite to licensing for an application after receiving the applicant's credentials and determining that the applicant holds a valid sex offender treatment license from another state that has license requirements substantially equivalent to those of this state.

(5) Request for Criminal History Evaluation Letter.

(A) In accordance with Occupations Code, §53.102, a person may request the council to issue a criminal history evaluation letter regarding the person's eligibility for a license if the person:

(i) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and

(ii) has reason to believe that the person is ineligible for the license due to a conviction for a felony or misdemeanor offense.

(B) A person making a request for issuance of a criminal history evaluation letter shall submit the request on a form prescribed by the council, accompanied by the criminal history evaluation letter fee and the required supporting documentation, as described on the form. The request shall state the basis for the person's potential ineligibility.

(C) The council has the same authority to investigate a request submitted under this section and the requestor's eligibility that the council has to investigate a person applying for a license.

(D) If the council determines that a ground for ineligibility does not exist, the council shall notify the requestor in writing of the determination. The notice shall be issued not later than the 90th day after the date the council received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form.

(E) If the council determines that the requestor is ineligible for a license, the council shall issue a letter setting out each basis for potential ineligibility and the council's determination as to eligibility. The letter shall be issued not later than the 90th day after the date the council received the request form, the criminal history evaluation fee, and any supporting documentation as described in the request form. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the council at the time the letter is issued, the board's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

(6) Inactive Status.

(A) A licensee may place his or her license on inactive status by submitting a written request prior to the expiration of the license along with the inactive fee to the council. Inactive status periods shall be granted only to persons whose licenses are current or whose licenses have been expired for less than 1 year.

(B) An inactive status period shall begin on the first day of the month following payment of an inactive status fee.

(C) A person may not act as a licensee, represent himself or herself as a licensee, or provide sex offender treatment during the inactive status period, unless exempted by the Act.

(D) A person may remain subject to investigation and action under §810.9 of this title (relating to Complaints, Disciplinary Actions, Administrative Hearings, and Judicial Review) during the period of inactive status.

(E) A person must notify the council in writing to return to active status. Active status shall begin after receipt of proof of successful completion of 24 hours continuing education within the 2 years preceding reinstatement of active status and payment of applicable fees.

(F) The person's next continuing education cycle will begin upon return to active status and end on the day of license expiration.

(G) A person previously approved as a supervisor whose license has been inactive for more than 2 years and who resumes active license status may become a supervisor by again completing the supervision requirements of the council.

(H) A person who is granted an inactive status by the person's mental health or medical license under §810.2(a)(12) of this title (relating to Definitions) shall be required to request an inactive status under this section.

(I) The licensee must renew the inactive status every 2 years.

(7) Active Military.

(A) For purposes of this section, a "designated representative" is a person authorized in writing by the licensee to act on behalf of the licensee. A copy of the written designation must be provided to the council.

(B) If a licensee fails to renew his or her license because the licensee is called to or is on active duty with the armed forces of the United States serving outside of the State of Texas, the licensee or the licensee's designated representative may request that the license be declared inactive or be renewed. A request for inactive status shall be made in writing to the council prior to expiration of the license or within one year from the expiration date. A request for renewal may be made before or after the expiration date.

(i) A written request shall include a copy of the official transfer orders of the licensee or other official military documentation showing that the licensee is called to or on active duty serving outside of the State of Texas.

(ii) The payment of the inactive status fee, late renewal fee and licensure renewal penalty fee is waived for a licensee under this section.

(iii) An active duty licensee shall be allowed to renew under this section without submitting proof of continuing education hours.

(iv) The written request shall include a current address and telephone number for the licensee or the licensee's designated representative.

(v) The council may periodically notify the licensee or the licensee's designated representative that the license of the licensee remains in inactive status.

(vi) If a licensee is a civilian impacted or displaced for business purposes outside of the State of Texas due to a national emergency or war, the licensee or the licensee's designated representative may request that the license be declared inactive in the same manner as described in this section for military personnel. The written request shall include an explanation of how the licensee is impacted or displaced, which explanation shall be on the official letterhead of the licensee's business. The requirements of this section relating to renewal by active duty licensees shall not apply to a civilian under this paragraph.

(8) Specialized Competencies. Licensed Sex Offender Treatment Providers with specialized competencies in the assessment and treatment of juveniles with sexual behavior problems, female sex offenders, and/or developmentally delayed sex offenders may have those competencies documented by the council , provided the following criteria is met:

(A) possess at least 250 documented and verified hours experience with each population in the assessment and treatment of juveniles with sexual behavior problems, female sex offenders, and/or developmentally delayed sex offenders; these hours may be part of the original training and experience hours required for the new application and original CE requirements up to 7 years prior;

(B) possess a minimum of 24 hours of documented continuing education training with each population in the assessment and treatment of juveniles with sexual behavior problems, female sex offenders, developmentally delayed sex offenders; and/or deregistration evaluation specialist these hours may be part of the original training and experience hours required for the original certification;

(C) possess a minimum of 3 hours of documented continuing education training with each population in the assessment and treatment of juveniles with sexual behavior problems, female sex offenders, and/or developmentally delayed sex offenders for renewal of the specialized competencies; and

(D) pay a biennial fee for each specialty as defined in §810.5(e) of this title.

(9) Supervision. All ASOTPs and PSOTPs providing sex offender assessment and treatment shall be supervised unless exempt under paragraph (3)(B)(ii) of this subsection. Supervision will include the following:

(A) An ASOTP and PSOTP providing sex offender assessment and treatment is required to be under the supervision of a LSOTP supervisor approved by the council unless exempt under paragraph (3)(B)(ii) of this subsection. The ASOTP and PSOTP shall provide a copy of supervision documentation to the council during the renewal period unless exempt under paragraph (3)(B)(ii) of this subsection.

(B) An LSOTP that has not been a supervisor approved by the council prior to the effective date of this rule shall meet the following criteria:

(i) possess 5 years experience as a RSOTP, or 5 years documented experience in the field of sex offender assessment and treatment, and/or an approved supervisor with another mental health license who has documented experience in the field of sex offender assessment and treatment;

(ii) sign and acknowledge the LSOTP supervisor's responsibilities form;

(iii) submit a biennial fee as defined in §810.5(f) of this title; and

(iv) obtain 3 hours documented continuing education in the supervision of sex offender treatment providers or in general supervision of other mental health professionals every 4 years.

(C) An ASOTP and PSOTP shall receive face-to-face supervision at least 1 hour per 20 hours of assessment and treatment with a minimum of 2 hours per month during any time period in which the supervisee provides sex offender treatment unless exempt under subparagraph (B)(ii) of this paragraph. Exceptions to supervision requirements shall be approved on a case-by-case basis by the council.

(D) The supervising LSOTP shall submit the required documentation to the council at the time of the renewal; the documentation shall contain the name(s) of the ASOTP(s) and PSOTP(s) and hours that each has been supervised during the renewal cycle. The supervising LSOTP shall be required to use the form(s) provided by the council.

(10) License Certificates. Upon completion of the application or renewal process, licensees shall receive an official certificate and renewal cards from the council. The certificate shall be displayed at all locations where sex offender assessment and treatment is provided. As set forth in §810.5(g) of this title, duplicate certificates may be obtained for a nominal fee.

(A) The council shall prepare and provide to each licensee a certificate and initial

and renewal cards which contain the licensee's name and certificate number.

(B) A licensee shall not display a license certificate(s) or renewal card(s) which have been reproduced or are expired, suspended, or revoked.

(C) A license certificate(s) or renewal card(s) issued by the council remains the property of the council and shall be surrendered to the council upon demand.

(D) The address and telephone number of the council shall be displayed at all locations where sex offender assessment and treatment is conducted and/or the licensee shall provide a copy to the client on initial intake for the purpose of directing complaints against the licensee to the council.

(11) Application processing. The council shall comply with the following procedures in processing applications for a license.

(A) The following times shall apply from a completed application receipt and acceptance date for filing, or until the date a written notice is issued stating the application is deficient and additional specific information is required. A written notice of application approval may be sent instead of the notice of acceptance of a complete application. The times are as follows:

(i) letter of acceptance of application for licensure--30 days;

(ii) letter of acceptance of application for renewal--30 days; and

(iii) letter of initial application deficiency--30 days.

(B) The following times shall apply from the receipt of the last item necessary to complete the application until the date of issuance of written notice approving or denying the application. The times for denial include notification of the proposed decision and of the opportunity, if required, to show compliance with the law and of the opportunity for a formal hearing. The times are as follows:

(i) approval of application--42 days; and

(ii) letter of denial of licensure--90 days.

(12) Refund processing. The council shall comply with the following procedures in processing refunds of fees paid to the council. In the event an application is not processed in the times stated in paragraph (11)(A) - (B) of this subsection.

(A) An applicant has the right to request reimbursement of all fees paid in that particular application process. Application for reimbursement shall be made to the executive director. If the executive director does not agree that the time has been violated or finds that good cause existed for exceeding the time, the request shall be denied.

(B) Good cause for exceeding the time is considered to exist if the number of applications for a license or renewal exceeds by 15% or more the applications processed in the same calendar quarter of the preceding year; another public or private entity relied upon by the council in the application process caused the delay; or any other condition exists giving the council good cause for exceeding the time.

(C) If the executive director denies a request for reimbursement under subparagraph (A) of this paragraph the applicant may appeal to the council for a timely resolution of any dispute arising from a violation of the processing times. The applicant shall give written notice to the council at the address of the council that he or she requests full reimbursement of all fees paid because his or her application was not processed within the applicable time. The executive director shall submit a written report of the facts related to the processing of the application and of any good cause for exceeding the applicable time. The council shall provide written notice of the decision to the applicant and the executive director. The council shall decide an appeal in favor of the applicant, if the applicable time was exceeded and good cause was not established. If the council decides the appeal in favor of the applicant, full reimbursement of all fees paid in that particular application process shall be made.

§810.4. License Issuance and/or Renewal. Beginning September 1, 2006, all new initial licenses shall expire on the last day of the licensee's birth month. The initial licensing period shall be at least 13 months and no more than 30 months. Subsequent licensing periods will be 24 months. In order to maintain eligibility for the licensure as a sex offender treatment provider, the mental health or medical license of each renewal shall be current and active. All renewal applicants shall comply with the following:

(1) Number of continuing education (CE) hours. All renewal applicants shall acquire by the end of the 2-year cycle, a minimum of 24 hours of documented continuing education. Six hours shall be in ethics and 12 shall be in sex offender assessment and treatment of which 6 hours shall be in sexual assault victim-related training, beginning September 1, 2011.

(2) All renewal applicants shall submit renewal forms provided by the council and renewal fees defined in §810.5 of this title (relating to Fees).

(3) The council shall employ an audit system for continuing education reporting. The licensee shall be responsible for maintaining a record of his or her continuing education experiences. The certificates or other documentation verifying earning of continuing education hours are not to be forwarded to the council at the time of renewal unless the licensee has been selected for audit.

(4) The audit process shall be as follows.

(A) The department shall select for audit a random sample of licensees for each renewal. Audit forms shall be sent to the selected licenses.

(B) All licensees selected for audit will furnish documentation of certificates, an

affidavit identifying the continuing education experience satisfactory to the council, or any other documentation requested by the council to verify having earned the continuing education hours listed on the continuing education report. The documentation shall be provided to the council upon request.

(C) Failure to furnish this information within 2 weeks of receipt of the audit forms or knowingly providing false information during the audit process or the renewal process are grounds for disciplinary action against the licensee.

(5) Beginning September 1, 2007, licensees may choose to renew biennially by September 30 or on the last day of the licensee's birth month. Fees shall not be prorated if the licensee chooses the birth month option. The first renewal period shall be at least 13 months and no more than 30 months. This option shall not be available to persons whose initial licenses were issued on or after September 1, 2006.

(6) Renewal applications for those persons initially licensed on or after September 1, 2006 shall be postmarked by the last day of the licensee's birth month or a late fee shall be assessed. Renewal applications for those initially licensed prior to September 1, 2006 shall be postmarked by September 30 or the last day of the licensee's birth month, depending on the chosen option, or a late fee shall be assessed.

(7) To ensure approval of continuing education hours, licensees should request pre-approval of hours from the council before attending continuing educational training. Instructors or sponsoring bodies may request pre-approval of hours from the council before conducting continuing education trainings. Continuing education activities related to the assessment and treatment of sex offenders or sexual assault victim related training shall be instructor-directed activities such as conferences, symposia, seminars, and workshops.

(8) Continuing education hours will be credited for approved, didactic presentations within the context of a professional conference or seminar. On the job training and field trips shall not be credited with continuing education hours.

(9) Licensees shall request pre-approval from the council for all online courses and courses taken at an institution of higher learning. All renewal applicants may count a maximum of 6 online hours per biennial renewal period not including ethic hours.

(10) All renewal applicants may count a maximum of 4 hours per biennial renewal period for the presentation of continuing education training, lectures, or courses in the specific area of sex offender assessment and treatment, sexual assault issues and/or victim training.

(11) A maximum of 3 hours may be carried over per renewal period for sexual assault issues or sexual assault victim training hours.

(12) Continuing education extension.

(A) A licensee who has failed to complete the requirements for continuing

education may be granted a 90-day extension by the executive director.

(B) The request for an extension of the CE period shall be made in writing and shall be postmarked prior to September 30.

(C) If an extension is requested, a late fee equal to one-half of the renewal fee stated in §810.5(b)(2)(B) of this title will be assessed.

(D) If an extension is granted, the next CE period shall begin the day after the CE requirement has been satisfied.

(E) Credit earned during the extension period cannot be applied toward the next CE period.

(F) A person who fails to complete the CE requirements during the extension period or who does not request an extension and holds an expired license, shall not use the title of LSOTP, ASOTP, and PSOTP, practice as a sex offender treatment provider, or provide sex offender treatment.

(13) A license shall be renewed upon completion of the required CE within the given extension period, submission of the license form, and payment of the applicable late renewal fee.

(14) A person who fails to complete CE requirements for renewal and failed to request an extension to the CE period may not renew the license. The person may obtain a new license by complying with the current requirements and procedures for obtaining a license.

§810.5. Fees.

(a) New Applicant Fees. The council has established the following license fees.

(1) All new LSOTP, ASOTP, and PSOTP applicants shall submit a non-refundable \$375 fee for a biennial application. Additional fees will be charged for Federal Bureau of Investigations and Texas Department of Public Safety criminal background checks unless exempt under §810.34 of this title (Relating to Frequency of Criminal Background Checks). Fees shall be determined by those agencies conducting the investigation.

(2) All applicants shall comply with the following requirements:

(A) return the completed, signed application form provided by the council;

(B) submit the license fee in the form of a check or money order or if renewing online by credit card; and

(C) submit within 90 calendar days of written notification from the council any documentation required.

(b) Renewal Fees. Renewal forms and information shall be mailed to each licensee at least 60 days prior to license expiration and mailed to the licensee's last known address as reflected in the council's records.

(1) All renewals shall include a nominal electronic renewal fee if applicable, as established by the contracting agency. Renewal fees are subject to the provisions in the Occupations Code, §110.307.

(2) To renew, a LSOTP, ASOTP, or PSOTP shall include a non-refundable \$275 fee for a biennial renewal. All applicants shall comply with the following requirements.

(A) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required license fee to the council on or before the expiration date of the license.

(B) If a license has been expired for 90 days or less, the late renewal fee is equal to one and one-half times the required renewal fee.

(C) If a license has been expired for longer than 90 days, but less than one year, the reinstatement fee is equal to two times the required renewal fee.

(D) If a license has been expired for 1 year or longer, the individual may obtain a new license by submitting and complying with the requirements and procedures for obtaining an original license.

(c) Criminal History Evaluation Letter. A \$50 fee shall be assessed to a person who requests a criminal history evaluation letter from the council.

(d) Effective January 1, 2004, for all new applications and renewal applications, the council is required to collect subscription and convenience fees, in amounts determined by the Texas Online Authority, to recover costs associated with application and renewal application processing through the texas.gov.

(e) Effective January 1, 2004, for all new applications and renewal applications, the council is authorized to collect fees to fund the Office of Patient Protection, Health Professions Council, as mandated by law.

(f) Specialty Fees. Applicants that meet the specialized competency criteria involving the treatment of juveniles with sexual behavior problems, females, developmentally delayed populations, and/or deregistration assessments shall submit a non-refundable \$40 specialty fee for each biennial period.

(g) Supervisor Fees. Licensees that meet the LSOTP supervisor criteria and who seek to be designated as an approved LSOTP supervisor shall submit a non-refundable \$40 credentialing fee for each biennial period.

(h) Inactive Fee. Licensees who request an inactive status shall submit a non-refundable \$50 fee.

(i) Duplicate Certificates. Licensees who request duplicate certificates shall be charged a non-refundable \$10 fee per certificate.

§810.8. Revocation, Denial, or Non-Renewal of a License.

(a) The council may revoke a license, deny an application for licensure, and/or refuse to renew a license upon proof that the treatment provider has:

(1) been convicted or adjudicated of any misdemeanor involving a sexual offense or sexually motivated offense; has ever received deferred adjudication for a sexual offense, or has been required to register as a sex offender in this state under Texas Code of Criminal Procedure, Chapter 62, or under any other law, or has been convicted or adjudicated of any felony;

(2) been determined by the council to have engaged in deceit or fraud in connection with the delivery of services, supervision, or documentation of licensure requirements;

(3) violated the Act or any rule adopted by the council;

(4) been prohibited from renewal by the Education Code, §57.491 (relating to Loan Default Ground for Non-renewal of Professional or Occupational License); or

(5) been prohibited from renewal by a court order or attorney general's order issued pursuant to the Family Code, Chapter 232 (relating to Suspension of License for Failure to Pay Child Support or to Observe a Child Custody Order).

(b) The council may take action against a licensee or deny an application or renewal in accordance with Occupations Code, Chapter 53, if the licensee has felony or misdemeanor convictions that directly relate to the duties and responsibilities as a sex offender treatment provider.

§810.9. Complaints, Disciplinary Actions, Administrative Hearings, and Judicial Review.

(a) Reporting a complaint. A person shall report an alleged violation of the Act or this chapter by a licensee or non-licensee by notifying the executive director. The initial notification shall be in writing and sent by fax, U.S. Postal Service, or email to the council's office.

(b) Review of the complaint.

(1) The executive director shall initially review the complaint for violations of the Act or any rule adopted by the council. The executive director may accept an anonymous complaint if there is sufficient information for the investigation.

(2) If it is determined that the matters alleged in the complaint are non-jurisdictional, the executive director, with the concurrence of the Ethics Committee Chair, may close the complaint

and give written notice of closure to the licensee or person against whom the complaint has been filed, the complainant, and the complaints committee. If it is determined that a violation of the Act or these sections may have occurred, the executive director or executive director's designee shall:

(A) notify the complainant in writing of receipt of the complaint;

(B) notify the licensee in writing that a complaint has been filed and provide a copy of the complaint; and

(C) provide a copy of the complaint to the licensee's mental health or medical licensing agency.

(c) The executive director shall refer pending jurisdictional complaints to the Ethics Committee. The Ethics Committee shall:

(1) review each complaint and determine whether the complaint fits within the category of a valid complaint affecting the health and safety of clients or other persons;

(2) ensure that complaints are not dismissed without appropriate consideration;

(3) ensure that a person who files a complaint has an opportunity to explain the allegations made in the complaint; and

(4) resolve the issues of the complaint which arise under the Act or this chapter.

(d) If it is determined that there are sufficient grounds to support the complaint, the matters in question shall be investigated. The executive director or the Ethics Committee may initiate the investigation.

(e) If the Ethics Committee determines that there are insufficient grounds to support the complaint, the committee shall dismiss the complaint and give written notice of the dismissal to the licensee or person against whom the complaint has been filed and the complainant.

(f) Responsibilities of the licensee.

(1) A licensee shall cooperate with the council by furnishing all required documents or information and by responding to a request for information or a subpoena issued by the council or its authorized representative.

(2) A licensee shall comply with any order issued by the council relating to the licensee. A licensee shall not interfere with a council investigation by the willful misrepresentation of facts to the council or its authorized representative or by the use of threats or harassment against any person.

(3) The licensee shall be notified of the allegations in writing by the executive

director or designee and shall be required to provide a response to the allegations within 20 calendar days of that notice.

(4) Failure to respond to the allegation within the 20 day period is evidence of licensee's failure to cooperate with the investigation and may subject the licensee to disciplinary action.

(g) Actions by the council. The council is authorized to revoke, suspend, or deny a license, or to deny a renewal of a license, place on probation a person whose license has been suspended, assess an administrative penalty, or reprimand a licensee for a violation of the Act or a rule of the council.

(h) Probated Suspension. If the suspension is probated, the council is authorized by Occupations Code, §110.352, to impose certain requirements and limitations on a person.

(i) Disciplinary action on the mental health or medical license. If a licensee's mental health or medical license is revoked or suspended, the council may propose to revoke a license issued under this chapter.

(j) Complaint information. The council shall retain all complaints filed with the council for 7 years from the date of closure. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all witnesses contacted in relation to the complaint;

(5) a summary of the results of the review, investigation of the complaint, and any action taken; and

(6) for a complaint for which the council took no action, an explanation of the reason the complaint was closed without action.

(k) Formal hearing.

(1) A formal hearing shall be conducted according to the provisions of the Texas Government Code, Chapter 2001, Administrative Procedure Act and held in Travis County, Texas, unless otherwise determined by the Administrative Law Judge (ALJ) or upon agreement of the parties.

(2) Prior to institution of formal proceedings to revoke or suspend a license, the executive director shall give written notice to the licensee by certified mail, return receipt requested, of the facts or conduct alleged to warrant revocation or suspension, and the person shall be given the

opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter.

(3) To initiate formal hearing procedures, the executive director shall give the licensee written notice of the opportunity for hearing. The notice shall state the basis for the proposed action. Within 20 calendar days after receipt of the notice, the licensee shall give written notice to the executive director that the licensee waives the hearing and either surrenders the license, or accepts the proposed sanction, or requests an informal settlement conference and/or a formal hearing. Receipt of the notice is deemed to occur on the seventh calendar day after the notice is mailed to the licensee's last reported address as reflected in the council's records unless another date of receipt is reflected on a U.S. Postal Service return receipt.

(A) If the licensee fails to request a hearing within the proscribed period, the licensee is deemed to have waived the hearing and a default order may be entered by the council.

(B) If the licensee requests an informal settlement conference and/or a formal hearing, within 20 calendar days after receiving the notice of opportunity for hearing, the executive director shall initiate an informal settlement conference and/or formal hearing procedures in accordance with this section.

(l) Final action.

(1) If the council suspends a license, the suspension remains in effect for the period of suspension ordered or until the council determines that the reasons for suspension no longer exist. The licensee whose license has been suspended is responsible for securing and providing to the executive director such evidence that the reasons for the suspension no longer exist. The council shall review and investigate the evidence prior to making a determination.

(2) During the time of suspension, the former licensee shall return all license certificate(s) and renewal card(s) to the council.

(3) If a suspension overlaps a renewal period, the former licensee shall comply with the normal renewal procedures in these sections. The council shall not renew the certificate until the executive director or the council determines that the reasons for suspension have been removed.

(4) A person whose application is denied or whose license certificate is revoked is ineligible to apply for licensure under this Act for 1 year from the date of the denial or revocation.

(5) Upon revocation or non-renewal, the former licensee shall return all certificate(s) and renewal card(s) issued to the licensee by the council. The certificate(s) and renewal card(s) shall be returned to the council by certified mail, hand-delivered, or by a delivery service, within 30 days of request.

(m) Appeal of the decision. A person may appeal a final decision of the council by filing a

petition for judicial review in the manner provided by the Texas Government Code, §2001.176.

SUBCHAPTER B. CRIMINAL BACKGROUND CHECK.

§810.31. Access to Criminal History Records. The council is authorized to obtain information from the Texas Department of Public Safety or the Federal Bureau of Investigation about a conviction or deferred adjudication that relates to an applicant seeking licensure. The council is authorized to obtain a criminal history record from any law enforcement agencies. The criminal history record information received under this section is for the exclusive use of the council and is privileged and confidential. The criminal history record information shall not be released or otherwise disclosed to any person or agency except on court order or with the written consent of the applicant.

§810.32. Records. All other records of the council that are not made confidential by other law are open to inspection by the public during regular office hours. The content of the criminal background checks on each licensee are not public records and are confidential. Unless expressed in writing by the chairperson of the council, the executive director and the executive director's designee are the only staff authorized to have daily access to the criminal history records. These records will be maintained in separate files and not in the licensee files.

§810.33. Destruction of Criminal History Records. The council shall destroy conviction/ adjudication information relating to a person after the council makes a decision on the eligibility of the applicant unless the information was the basis for a proposed denial, revocation, suspension, or refusal to renew a person's license. The council shall destroy the information provided by the Texas Department of Public Safety, the Federal Bureau of Investigation or any other law enforcement agency. In the event that information is collected online, all files created will be destroyed in the aforementioned timeframe.

§810.34. Frequency of Criminal Background Check.

(a) The council shall conduct a criminal background check on each new applicant, randomly at the time of renewal, and as deemed necessary.

(b) State or Federal Governmental Employees Criminal History. Any employee of a state or federal governmental agency that conducts annual national and Texas criminal history checks on its employees may substitute a certification from that employer for any requirement for a criminal background check. The governmental entity shall provide a certification if the employees criminal history changes. Fees for criminal history records may be waived if the applicant is unable to produce an employer certification.

SUBCHAPTER C. STANDARDS OF PRACTICE.

§810.61. Introduction to the State Standards of Practice. These state standards were developed by the council to delineate appropriate assessment and treatment procedures and policies in Texas. These standards address the professional licensing expectations for the assessment and treatment of adult sex offenders and juveniles with sexual behavior problems.

§810.62. State Standards of Practice.

(a) Interventions shall be designed to assist the individual to effectively manage thoughts, feelings, attitudes, and behaviors associated with their risk to reoffend. Structured, cognitive behavioral skills-oriented treatment programs shall target specific criminogenic needs to reduce re-offense rates. Interventions utilized in the assessment and treatment of sex offenders and juveniles with sexual behavior problems shall be empirically validated and generally accepted by professionals in this field.

(b) Licensees shall utilize the following principles when providing sex offender assessment and treatment:

(1) be committed to community protection and safety and licensees shall be aware of any professional and legal obligations regarding a duty to protect or warn;

(2) not make statements that a client is no longer at any risk to reoffend sexually;

(3) act in the best interests of society, the victim, and the client;

(4) utilize the containment model; and

(5) hold voluntary or mandated clients to the same standards of practice and compliance.

§810.63. General Assessment Standards (Adults and Juveniles).

(a) The assessment shall focus on the strengths, risks, and needs of the client, and identifying factors from social and sexual history, which may contribute to sexual deviance. Assessments shall provide the basis for the development of comprehensive treatment plans and shall provide recommendations regarding the intensity of intervention, specific treatment protocol needed, amenability to treatment, as well as the identified risk the adult sex offender and/or the juvenile with sexual behavior problems presents to the community.

(b) Licensees shall refrain from assessment protocols outside the scope and recognized boundaries of the licensee's competencies.

(c) In preparing assessments of adult sex offenders and juveniles with sexual behavior problems, licensees shall:

(1) be culturally sensitive, fair and impartial, providing objective and accurate data;

(2) respond only to referral questions that fall within the licensee's expertise and present level of knowledge;

(3) be respectful of the client's right to be informed of the reasons for the assessment, the interpretation of data, the basis for recommendations, and conclusions;

- (4) have knowledge of the client's legal status;
- (5) understand the limitations of a client's self-report and make all possible efforts to verify the information provided by the client;
- (6) use assessment procedures and techniques sufficient to respond to the presenting issues and provide appropriate substantiation for the resulting conclusions and recommendations;
- (7) administer, score, interpret and/or utilize assessment techniques, tests or instruments in a manner and for purposes for which there are professional or scientific bases;
- (8) administer, score, interpret and/or utilize assessment techniques, tests or instruments in a manner and for purposes for which the assessment technique has been standardized;
- (9) not utilize assessment techniques, tests or instruments that are outdated or obsolete as determined by the council;
- (10) not base their assessment or intervention decisions or recommendations on data or test results that are outdated, obsolete or not useful for the current purpose as determined by the council;
- (11) acknowledge if an assessment consisted of only a clinical review without client contact and shall clarify the impact that limited information has on the reliability and validity of the resulting report;
- (12) provide clients in writing informed consent, statement of disclosures, releases and/or exceptions to confidentiality, and employ verbal explanations for clients who do not meet the reading or comprehension level required;
- (13) thoroughly review written documentation and collateral interviews. The information from all available and relevant sources, may include but is not limited to:
 - (A) criminal investigation records;
 - (B) child protective services investigations;
 - (C) previous assessments and treatment progress reports;
 - (D) mental health records and assessments;
 - (E) medical records;
 - (F) Texas Department of Criminal Justice and Texas Youth Commission records;
 - (G) probation records;

and (H) information regarding details of the offense as obtained by law enforcement;

(I) the official victim statement(s).

(14) diligently interpret assessments conducted without collateral information;

(15) ensure written assessments document and acknowledge the procedures employed, summaries, conclusions, recommendations, and all collateral reports and interviews;

(16) new interviews or repeated interviews of victims should not be required during the client's assessment; these should only be used when there is no discernible risk of harm or discomfort to the victim; and

(17) when the assessment of a client and a victim are concurrent, the licensee shall be vigilant to remain objective in the administration of procedures and the interpretation of the information obtained through the interview or other means.

(d) Licensees shall subscribe and adhere to the following tenets regarding the client assessment.

(1) If a client does not meet the reading or comprehension level required by an assessment instrument, arrangements for using a standardized approved auditory (taped or read) version of the test instrument shall be made to the extent such versions are available.

(2) The clinical interview shall incorporate sufficient discussion necessary to augment, clarify, and explore the information obtained from the review of collateral materials and contacts and other components of the assessment (for example: testing results).

(3) Licensees shall make every effort to obtain the official offense report to compare the degree of similarity or disparity between the client and the victim's statements.

(4) Assessment of treatment needs shall identify strengths and weaknesses in the individual's psycho-sexual functioning for the purpose of directing treatment efforts to the appropriate areas.

(5) Recommendations for treatment should be based on the presence of factors known to be related to sexual offense risk and/or the absence of skills known to impact the reduction and/or management of risk factors related to sexual offense risk.

(6) When formulating recommendations, community safety and the degree to which a client is capable and willing to manage risk shall be considered.

(7) If a significant amount of time has lapsed between the time of the assessment and when the client is accepted into a treatment program, an assessment update shall be required.

(8) An assessment update shall collect current data upon which the original treatment plan can either be confirmed or amended.

(9) Licensees shall make an effort to recommend the most appropriate treatment program available and objectively state the level of risk management regardless of whether existing limited resources preclude adequate or appropriate services.

§810.64. Assessment and Treatment Standards for Adult Sex Offenders.

(a) Assessments shall provide a comprehensive treatment plan and recommendations regarding the intensity of intervention, specific treatment protocol needed, amenability to treatment, and the identified community risk.

(b) A comprehensive assessment as cited in subsection (a) - (c) of this section shall be completed within 60 days of a client's being accepted into treatment program. The assessment of adult sex offenders shall include:

- (1) mental status examination;
- (2) clinical interview;
- (3) personality assessment;
- (4) intellectual assessment;
- (5) sexual offense behaviors; and
- (6) recommendations for case management, treatment planning, and further assessments.

(c) Efforts shall be made to acquire the following information gathered in the assessment process:

- (1) neurological, and cognitive functioning;
- (2) mental status and psychiatric history;
- (3) medical history of head injuries, physical abnormalities, enuresis, encopresis, current use of medication, allergies, accidents, operations, and major medical illnesses;
- (4) self-destructive behaviors, self-mutilation, and suicide attempts;
- (5) psychopathology and personality characteristics;
- (6) family history and marital/relationship history;

- (7) history of physical, emotional and/or sexual victimization;
- (8) education and occupation history;
- (9) criminal history;
- (10) history of violence and aggression including use of weapons;
- (11) history of truancy, fire-setting, and abuse of animals;
- (12) interpersonal relationships, both past and current;
- (13) cognitive distortions;
- (14) social competence;
- (15) impulse control;
- (16) substance abuse;
- (17) official report regarding the instant sexual offense (Occupations Code, Chapter 109, §109.054);
- (18) denial, minimization and inability to accept responsibility;
- (19) sexual history including sexual development, adolescent sexuality and experimentation, dating history, intimate sexual contacts, gender identity issues, adult sexual practices, masturbatory practices, sexual dysfunction, fantasy content, and sexual functioning; and
- (20) sexual offense behavior, including description of offense behaviors, number of victims, gender and age of victims, frequency and duration of abusive sexual contact, victim selection, access, and grooming behaviors, use of threats, coercion or bribes to maintain victim silence, degree of force used before, during and/or after offense, and deviant arousal patterns.

(d) Treatment Standards for Adult Sex Offenders. Licensees shall adhere to the following standards when providing treatment to an adult sex offender:

- (1) cognitive-behavioral approaches shall be utilized in sex offender treatment groups;
- (2) treatment groups for non-developmentally delayed adults shall not be less than 60 minutes in length with no more than 12 clients per group;
- (3) individual therapy, self-help groups, drug intervention, or other therapies shall be used primarily as adjuncts to more comprehensive sex offender treatment;

(4) a written initial individualized treatment plan shall identify the issues, intervention strategies, and goals of treatment and shall be prepared for each client within 60 days of beginning treatment. Treatment plans should be updated at least annually;

(5) progress, or lack of progress needs to be based on clearly specified objective criteria, refusal or failure to attend or participate in treatment, failing to abide by the client's treatment plans and/or contracts, or any disclosures regarding violations of supervision, shall be clearly documented in treatment records. Licensees shall provide and communicate this information to the appropriate supervising officer in the justice system according to the referring agency policy or pursuant to the court order;

(6) progress in treatment shall be based on specific, measurable objectives, observable changes, and the demonstrated ability to apply changes in relevant situations and comply with supervision requirements. These changes shall be demonstrated by an increased understanding by the client of his/her own deviant behavior, understanding of current and sexual offense sequence, increase in pro-social behaviors, compliance with supervision, increase in support systems, and victim empathy;

(7) monthly treatment progress reports shall be distributed to the supervision officer, referring agency, and/or court. Discharge reports shall be issued according to the referring agency policy or pursuant to the court order;

(8) when a client has attained the goals outlined in the individualized treatment plan , there should be a gradual and commensurate adjustment of interventions;

(9) a licensee may refuse to treat a client because essential ancillary resources do not exist to provide the necessary levels of intervention or safeguards;

(10) the licensee shall have an ethical obligation to refer the client to a more comprehensive treatment program and/or to the judicial system when the licensee determines that a client is not making the necessary progress in treatment to reduce the client's risk to the community;

(11) a licensee may decide to decline further involvement with a client who refuses to address any critical aspect of treatment;

(12) a licensee may terminate services and facilitate a transfer of a client from treatment based on a complaint having been filed against the licensee by the client and/or the client's representative(s);

(13) a licensee shall immediately notify the appropriate authority when a client refuses or fails to comply with court-ordered treatment or Texas Board of Pardons and Paroles ordered treatment;

(14) some degree of denial shall not preclude a client from entering treatment, although

the degree of denial shall be a factor in identifying the most appropriate form and location of treatment;

(15) modifications in treatment and in expectations for treatment outcomes may be required in instances of persistent denial;

(16) a licensee shall not rely exclusively on self report by the client to assess progress or compliance with treatment requirements and/or conditions of probation or parole. Licensees shall rely on multiple sources of information, which should include information from collateral contacts, physiological methods, and other research-based sexual interest assessments;

(17) physiological methods or measures of sexual interest assessment shall not replace other forms of monitoring but may improve accuracy when combined with active surveillance, collateral verifications, and self-report. Penile plethysmograph (PPG) assessments in Texas shall be conducted under the direction of a licensed practitioner defined in Health and Safety Code, Chapter 1, §1.005. Licensees should refer the client for a polygraph exam as soon as possible if the client is suspected of engaging in suppression behaviors on the PPG;

(18) polygraph examinations shall only be administered by licensed polygraph examiners that meet and adhere to the "Recommended Guidelines for the Clinical Polygraph Examinations of Sex Offenders" as developed by the Joint Polygraph Committee on Offender Testing (JPCOT) and/or the American Polygraph Association (APA) regarding Post-Conviction Sex Offender Testing (PCSOT) Standards. It is primarily the licensed sex offender treatment provider's responsibility for preparing the client for any polygraph. Sexual history polygraphs shall include all aspects of a client's sexual behaviors and a victim's list that occurred prior to the offense of conviction. Licensed sex offender treatment providers shall obtain the official offense report (Occupations Code, Chapter 109, §109.054) and shall ensure the polygraph examiner has the official offense report in order to administer the instant offense polygraph examination. The sex offender treatment provider shall recognize that the polygraph examiner is the authority in determining if a polygraph is appropriate;

(19) informed consent shall be obtained prior to engaging clients in aversive conditioning;

(20) licensees shall communicate and exchange information with the Department of Family Protective Services-Child Protective Services, Child Care Licensing, and with appropriate agencies regarding the safety of a child or children in the primary residence in which a sex offender resides;

(21) the safety of the children takes precedence and the highest priority shall be given to the rights, well-being, and safety of children when making decisions about contact between the client and children. If the client has a history of deviant sexual arousal and/or deviant sexual interest to or reported fantasies of sexual contact with children, client should be restricted from having access to children. Supervised visits may be considered if:

(A) it is determined that sufficient safeguards exist to protect the child(ren);

(B) the sex offender has demonstrated control over deviant arousal;

(C) it does not impede the sex offender's progress in treatment; and

(D) if it is compliant with the court mandated or Texas Board of Pardons and Paroles ordered conditions.

(22) treatment referrals should be offered to the non-offending partners and children in cases where a parent or legal guardian has been removed;

(23) family support and participation in the treatment of the adult sex offender should be included when applicable and appropriate. Sexual assault victims or vulnerable children shall be excluded until such time as joint therapy is determined to be appropriate;

(24) the licensee shall make every effort to collaborate with the victim's therapist in making decisions regarding communication, visits and reunification. Contact shall be arranged in a manner that places child/victim safety first. The licensee shall ensure that custodial parents or legal guardians of the children have been consulted prior to authorizing contact and that the contact is in accordance with Court or Texas Board of Pardons and Paroles directives; and

(25) if reunification is deemed appropriate by the victim's therapist, the process shall be closely supervised. There shall be provisions for monitoring behavior and reporting rule violations. A victim's comfort and safety shall be assessed on a continuing basis.

(e) Adult Laws. Licensees shall be familiar with and adhere to the criminal justice system and confidentiality laws concerning adult sex offender and victims of sexual assault. The legal citations include but are not limited to:

(1) Occupations Code, Chapter 110;

(2) Health Insurance Portability and Accountability Act, Title 45, Code of Federal Regulations (CFR), Parts 160 and 164;

(3) Code of Criminal Procedure, Chapter 62, Sex Offender Registration;

(4) Code of Criminal Procedure, Article 42.12;

(5) Occupations Code, Chapter 109 (Specifically §109.051 and §109.052);

(6) Code of Criminal Procedure, Chapter 56; and

(7) Federal Justice for All Act of 2004.

§810.65. Assessment and Treatment Standards for Juveniles with Sexual Behavior Problems.

(a) Licensees shall subscribe and adhere to the following tenets regarding juveniles with sexual behavior problems:

(1) licensees shall recognize that some children before age 10 begin displaying sexually inappropriate behavior with others and children may duplicate sexual behavior they have witnessed on the part of other children, older siblings, and/or adults;

(2) licensees shall recognize that the onset of sexual behavioral problems in juveniles can be linked to numerous issues related to their experiences, exposure, and/or developmental deficits;

(3) licensees shall recognize that juveniles are distinct from their adult counterparts;

(4) licensees shall recognize that sexual arousal patterns of juveniles appear more fluid and less firmly established than those of adult sex offenders and relate less directly to their patterns of offending behavior;

(5) licensees shall recognize that juveniles who display sexually abusive behavior are heterogeneous; juveniles are children first with developmental needs, but also have special needs and present special risks related to their abusive behaviors; and

(6) licensees shall recognize a holistic approach when treating juveniles with sexual behavior problems.

(b) Assessment Standards for Juveniles with Sexual Behavior Problems.

(1) Licensees shall adhere to §810.63 of this title (relating to General Assessments Standards (Adults and Juveniles)).

(2) The assessment shall focus on strengths, risks, and needs of the juvenile with sexual behavior problems, and shall identify factors from social and sexual history which may contribute to sexual deviance and minimize the likelihood that the individual will engage in delinquent or abusive behavior. Assessments shall form the basis or foundation of a comprehensive treatment plan and recommendations regarding the intensity of intervention, specific treatment protocol needed, and amenability to treatment, as well as the identified risk the juvenile with sexual behavioral problems presents to the community. A comprehensive assessment of juveniles with sexual behavior problems shall be an ongoing and continuing process.

(3) The assessment shall be age appropriate.

(4) The assessment shall be sensitive to any cultural, language, ethnic, developmental, sexual orientation, gender, medical, and/or educational issues that may arise during the assessment.

(5) The assessment shall be developmentally appropriate which includes social, cognitive, and educational levels as well as measures specifically designed for youth.

(6) A comprehensive assessment as cited in subsections (b) - (h) of this section shall be completed within 60 days of a client's being accepted into treatment program.

(7) A reasonable effort should be made to secure the following information gathered in the assessment process:

(A) intellectual, neurological, and cognitive functioning;

(B) mental status psychiatric history/hospitalization;

(C) medical history and an examination by a medical professional to determine sexual development;

(D) self-destructive behaviors including self-mutilation and suicide attempts;

(E) description of the family origin, family history, and relationship history including exposure to domestic violence;

(F) juvenile history;

(G) sex offender registration status;

(H) history of violence and aggression;

(I) history of school truancy, fire-setting, abuse of animals, and running away;

(J) cognitive distortions;

(K) impulse control;

(L) history of physical, emotional and/or sexual victimization;

(M) social and educational competence;

(N) sexual education/knowledge information;

(O) strengths and assets, family support, and pro-social activities;

(P) substance use or abuse;

(Q) official reports regarding instant sexual offense;

(R) sexual history including sexual development, sexuality and experimentation, gender identity issues, masturbatory practices, and fantasy content; and

(S) sexual offense behavior-including a description of the offense behaviors, number of victims, gender and age of victims, frequency and duration of sexual contact, victim selection, access, grooming behaviors, use of threats, coercion or bribes to maintain victim silence, degree of force used before, during and/or after the sexual behavior, and sexually deviant arousal patterns.

(8) If phallometric assessment or aversive treatment techniques are utilized with persons 17 years of age or younger, informed consent for such assessment and treatment shall be obtained from the juvenile with sexual behavior problems and written consent for such assessment and treatment shall be obtained from the juvenile's parents or legal guardians. The procedures shall be reviewed and approved by multi-disciplinary professionals or institutional advisory group. Stimuli shall be specific for use with adolescents.

(9) Individuals that are pre-pubescent or under the age of 13 shall not undergo phallometric assessment or aversive treatment except in rare cases, which shall be reviewed and approved by multi-disciplinary professionals or institutional advisory group.

(10) A signed informed consent of disclosure of information shall be obtained from the parent(s) or legal guardian(s) in order to exchange information. Assent from the individual being evaluated shall be obtained whenever possible.

(c) Collateral Information. The treatment provider shall review written documentation and collateral interviews. The review involves collecting information from all available and relevant sources concerning the juvenile and the victim(s), including:

(1) parent(s), guardian(s), or custodian(s);

(2) sibling(s);

(3) victim(s) statement(s);

(4) school records;

(5) child protective services;

(6) previous treatment providers;

(7) mental health professionals;

(8) law enforcement; and

(9) the following information should be provided from the supervision officer:

- (A) court order or judgment;
- (B) victim(s) information;
- (C) juvenile risk assessment;
- (D) data collection form; and
- (E) official offense report.

(d) Assessment Areas. Assessments shall be individualized and efforts shall be made to acquire the following information:

- (1) intellectual, neurological, and cognitive functioning;
- (2) personality assessment;
- (3) behavioral, social, and sexual functioning;
- (4) sexual offense behaviors; and
- (5) co-morbidity.

(e) Risk Assessments. The estimate of risk shall be a combination of the clinical interview and the assessment instruments. Risk assessment results should be repeated every 6 months due to the fluidity of juveniles. Risk assessments specific to juveniles shall be utilized and are available in the public domain.

(f) Substance Abuse Assessment. Licensees shall use a valid and reliable assessment tool to screen for substance abuse.

(g) Polygraphs. The licensed sex offender treatment provider is primarily responsible for preparing the juvenile for any polygraph. If polygraphs are utilized, the licensed sex offender treatment provider shall:

(1) obtain the official offense report prior to administering the instant offense polygraph (Occupations Code, Chapter 109, §109.054);

(2) include all aspects of a client's sexual behaviors and a victim's list for the sexual history polygraph;

(3) ensure that the polygraph is administered on a voluntary basis and with informed consent unless court ordered (Family Code, §54.0405 Juvenile Probation);

(4) ensure that the polygraph examiner is listed on the JPCOT roster and/or trained by the American Polygraph Association (APA) in Post-Conviction Sex Offender Testing (PCSOT); and

(5) recognize the polygraph examiner is the authority in determining if a polygraph examination is appropriate for a juvenile.

(h) Assessment Recommendations. The following issues shall be addressed when formulating recommendations:

(1) the strengths, risks, needs, and the degree to which a juvenile is capable and willing to manage risk; and

(2) co-morbidity, placement, education/vocational needs, parent or guardian and family issues, substance abuse issues, and supervision.

(i) Treatment Standards for Juvenile with Sexual Behavior Problems.

(1) Treatment shall incorporate both cognitive/ behavioral and reoffense prevention plans to reduce recidivism. A multifaceted program shall be age and developmentally appropriate and may include but is not limited to the following:

(A) group and individual cognitive behavioral treatment; females shall not be treated in the same groups with male juveniles;

(B) sexual offense sequence;

(C) re-offense prevention plans;

(D) family therapy;

(E) victim empathy;

(F) adjunct therapy may include substance abuse treatment, anger and stress management, conflict resolution, sex education, social competence/life skills, clarifying, values, trauma resolution, problem solving, impulse control, and interpersonal communication;

(G) multi-systemic therapy;

(H) psychopharmacological approaches;

(I) polygraphs (Family Code, §54.0405 Juvenile Probation); and

(J) visual reaction time or plethysmographs.

(2) the treatment program for juveniles shall include a comprehensive individualized assessment as cited in subsections (b) - (i) of this section, progressive levels of treatment, reoffense prevention plans, and for youth in residential treatment, transition into the community, and aftercare;

(3) treating juveniles shall be part of a multidisciplinary collaborative approach and containment model that includes but is not limited to the juvenile, treatment provider, juvenile probation officer, and if applicable the following: the family, guardian, custodian, school officials, law enforcement, juvenile detention officers, institutional staff, mental health case workers, polygraph examiners, child protective services, victim advocates, and the victim's therapist;

(4) licensees shall focus on the juvenile's existing strengths and positive support system to promote pro-social behaviors and facilitate change;

(5) treatment referrals should be offered to the parent(s), guardian(s), or custodian(s) and sibling(s); of the juvenile where a juvenile has been removed;

(6) licensees shall utilize developmentally appropriate treatment strategies for juveniles with intellectual and cognitive impairments;

(7) risk management strategies may address the needs underlying the juvenile's behavior, and include, but are not limited to safety plans, avoidance of high risk factors, impulse control, polygraphs , and sex education;

(8) the primary goals of treatment shall be to assist juveniles in gaining control over their sexual behavior problems, enhancing the juveniles overall functioning, increasing their pro-social interactions, preventing further victimization, halting development of additional psychosexual problems, and developing age-appropriate relationships;

(9) if treatment groups are utilized for non-developmentally delayed juveniles with sexual behavior problems, groups shall not be less than 60 minutes in length with no more than 12 clients per group;

(10) if treatment groups are utilized for developmentally delayed juveniles, groups shall not be less than 30 minutes in length with no more than 8 clients per group;

(11) individual therapy, self-help groups, drug intervention, or other therapies shall be used primarily as adjuncts to a comprehensive sex offender treatment program;

(12) a written initial individualized treatment plan shall identify the issues, intervention strategies, and goals of treatment and shall be prepared for each client within 60 days of beginning treatment. Treatment plans should be updated every 6 months;

(13) progress, or lack of progress needs to be based on clearly specified objective criteria, refusal or failure to attend or participate in treatment, failing to abide by the client's treatment plans and/or contracts, or any disclosures regarding violations of supervision shall be clearly documented in treatment records. This information shall be provided and communicated to the appropriate supervising officer in the justice system according to the referring agency's policy or pursuant to the court order;

(14) monthly treatment progress reports shall be distributed to the supervision officer, referring agency, and/or the court. Discharge reports shall be issued according to the referring agency policy or pursuant to the court order;

(15) when a juvenile has attained the goals outlined in the juvenile's individualized treatment plan, there should be a gradual and commensurate adjustment of interventions;

(16) some degree of denial shall not preclude a client from entering treatment, although the degree of denial shall be a factor in identifying the most appropriate form and location of treatment;

(17) modifications in treatment and in expectations for treatment outcomes may be required in instances of persistent denial;

(18) clients who remain in significant denial and/or are extremely resistant to treatment after the finite period of extension determined by the treatment provider and supervision team should be reassessed for appropriate placement in alternative treatment and/or interventions;

(19) licensees shall communicate and exchange information with the Department of Family Protective Services-Child Protective Services, Child Care Licensing, and with appropriate agencies regarding the safety of a child or children in the primary residence in which a juvenile resides;

(20) the safety of children/victims takes precedence and the highest priority shall be given to the rights, well-being, and safety of children when making decisions about contact between the juvenile and children. If the juvenile has a history of sexual arousal to reported fantasies of sexual contact with children of a particular age/gender group, supervised visits may be considered if:

(A) it is compliant with the court mandated conditions;

(B) it is determined that sufficient safeguards exist including but not limited to safety plans approved by the treatment provider and supervision officer;

(C) the juvenile has demonstrated control over sexual impulses and destructive behaviors;

(D) it does not impede the juvenile's progress in treatment;

(E) the parent(s), guardian(s), or custodian(s) have demonstrated the ability and willingness to supervise the juvenile effectively and ensure the safety of other children in the home; and

(F) the victim's therapist or Guardian Ad Litem (if applicable) are involved in the decision making process.

(21) the licensee shall make every effort to collaborate with the victim's therapist in making decisions regarding communication, visits and reunification. Contact shall be arranged in a manner that ensures the child/victim safety first;

(22) if reunification is deemed appropriate by the victim's therapist, the process shall be closely supervised. There shall be provisions for monitoring behavior and reporting rule violations. A victim's comfort and safety shall be assessed on a continuing basis; and

(j) Juvenile Laws. Licensees shall be familiar with and adhere to the juvenile justice system and confidentiality laws concerning juveniles with sexual behavior problems and the victims of sexual assault. The legal citations include but are not limited to:

(1) Occupations Code, Chapter 110;

(2) Health Insurance Portability and Accountability Act, Title 45, Code of Federal Regulations (CFR), Parts 160 and 164;

(3) Texas Family Code, Title 3, Chapter 51 et seq;

(4) Texas Family Code, §153.076, Duty to Provide Information;

(5) Code of Criminal Procedure, Chapter 62, Sex Offender Registration;

(6) Occupations Code, Chapter 109 (Specifically §109.051 and §109.052);

(7) Code of Criminal Procedure, Chapter 56; and

(8) Federal Justice for All Act of 2004.

§810.66. Standards for Adult Female Sex Offenders. Licensees shall subscribe and adhere to the following tenets regarding female sex offenders:

(1) The treatment of female sex offenders shall balance treatment issues with offender accountability to the victims and the community at large.

(2) Licensees shall recognize the female sex offenders may experience deviant sexual arousal that can lead to sexual abuse and that female sex offenders may experience sexual pleasure from the offending behavior.

(3) Female sex offenders shall be assessed for deviant sexual interest and arousal using appropriate measures.

(4) Licensees shall communicate and exchange information with the Department of Family Protective Services-Child Protective Services, Child Care Licensing, and with appropriate agencies regarding the safety of a child or children in the primary residence in which

a sex offender resides.

(5) Group treatment of female sex offenders shall not be conducted with male sex offenders due to issues related to past victimization, stereotypical gender roles, experiences with domestic violence, and differential patterns in relating to others within the context of treatment, unless approval is obtained in writing by the council.

(6) Treatment of female sex offenders shall be responsive to any abuse history as with males and responsive to gender issues.

(7) In assessing and treating female sex offenders, licensees shall refer to the appropriate rules in §§810.62, 810.63, 810.64, and 810.68 of this title (relating to Standards of Practice).

§810.67. Assessment and Treatment Standards for Developmentally Delayed Clients.

(a) These standards delineate research-based practices for developmentally delayed clients. Licensees shall subscribe and adhere to the following tenets for developmentally delayed clients:

(1) the assessment and treatment of developmentally delayed clients shall be conducted in the context of the family and support system;

(2) managing the risk, behavioral interventions, and the imposition of appropriate external controls shall be a priority for clients with disabilities;

(3) licensees should guard against justifying sexually deviant behavior by indicating that the developmental disability for any client has any relation to his or her victim typology; and

(4) developmentally delayed clients shall be given the opportunity to exercise their right to make a voluntary and informed decision to participate in treatment. While clients may refuse to participate in or attend treatment, the client shall be informed of the consequences of such a decision. A client shall be fully informed of the nature of the treatment, the benefits, and the available options. Written consent to proceed with treatment shall be obtained by an interdisciplinary review and the parent or legal guardian.

(b) Assessment Standards for the Developmentally Delayed Client.

(1) licensees shall adhere to the provisions of §810.63 of this title (relating to General Assessments Standards (Adults and Juveniles));

(2) a comprehensive assessment as cited in this section shall be completed within 60 days of a client's being accepted into treatment program;

(3) the assessment shall be developmentally and age appropriate;

(4) the assessment shall be sensitive to any cultural, language, ethnic, developmental, sexual orientation, gender, medical, and/or educational issues;

(5) The assessment shall determine the client's level of functioning, appropriate treatment interventions, and facilitate the development of an individualized treatment plan. Assessments shall be individualized and efforts shall be made to acquire the following information:

(A) current level of functioning:

- (i) intellectual, neurological, cognitive, and behavior functioning;
- (ii) level of planning the crime of conviction;
- (iii) expressive and receptive language;
- (iv) social judgment, adaptive skills, and moral reasoning;
- (v) sex education and sexual history;
- (vi) adaptive behavior;
- (vii) criminal history;
- (viii) attention deficit;
- (ix) ability to function in groups;

(x) support systems (Department of Aging and Disabilities and/or Department of State Health Services-Behavioral and Community Mental Health agency involvement, family involvement, social involvement);

(xi) environmental or contextual factors that contribute to or maintain the behavior; and

(xii) history of physical, emotional and/or sexual victimization.

(B) official documents concerning the instant sexual offense report/offense description:

- (i) age and relation to the victim(s);
- (ii) details of the offense;
- (iii) past criminal behavior and/or sexually inappropriate behavior;
- (iv) sexual history and deviant sexual interest; and

(v) the extent of denial and cognitive distortions.

(C) pertinent history:

(i) developmental history;

(ii) family, marital, relationship, and personal background;

(iii) past criminal behavior and/or sexually inappropriate behavior;

(iv) sexual history and deviant sexual interest; and

(v) the extent of denial and cognitive distortions.

(D) medical, psychological and/or psychiatric/hospitalization history;

(i) educational history;

(ii) occupational history;

(iii) substance use or abuse;

(iv) self-destructive behaviors, self-mutilation, and suicide attempts; and

(v) history of truancy, fire-setting, abuse of animals, and running away.

(6) If a plethysmograph is conducted with this population, caution shall be used regarding interpretation and validity. Licensees shall ensure that the stimulus package is appropriate to the client's developmental level.

(7) If visual reaction time measures are utilized, the measures shall only be used with clients who have an IQ score sufficiently high to achieve valid and reliable test results.

(8) If polygraphs are utilized, prior to administering polygraph examinations a licensed sex offender treatment provider shall collaborate with the polygraph examiner and the supervision officer to assess the client's ability to understand the concepts of truthfulness, deception, or lying and the capacity to anticipate negative consequences based on deceptive responses. Licensed sex offender treatment providers shall:

(A) recognize that it is the primarily licensed sex offender treatment providers responsibility to prepare the client for any polygraph;

(B) shall obtain the official offense report prior to administering the instant offense polygraph (Occupations Code, Chapter 109, §109.054);

(C) include all aspects of a client's sexual behaviors and a victim's list for sexual history polygraphs;

(D) ensure that the polygraph is administered on a voluntary basis and with informed consent unless court ordered; and

(E) recognize that the polygraph examiner is the authority in determining if a polygraph examination is appropriate.

(c) Treatment Standards for the Developmentally Delayed Client.

(1) treatment shall be developmentally and age appropriate;

(2) treatment components for developmentally delayed clients should be based on those used in treating non-developmentally delayed clients but tailored to address the learning limitations and special issues confronting these clients;

(3) treatment programs shall address the barriers encountered by the client;

(4) cognitive behavioral therapeutic approaches shall be paired with the cognitive strengths and weaknesses of the client;

(5) treatment should include concrete skill building related to social interaction, social skills, sexual behavior, and sex education;

(6) clients with disabilities shall be offered treatment that is appropriate to their developmental capacity, their level of comprehension, and the ability to integrate treatment components;

(7) progress in treatment and ability shall be determined by the client integration of the components of treatment;

(8) group treatment shall be based on the client's level of functioning in a group setting;

(9) licensees shall use more individually oriented behavioral interventions coupled with external containment strategies for clients whose level of functioning is determined to be inappropriate for group treatment;

(10) licensees should be provided a reasonable alternative toward identifying risk situations or behaviors and appropriate interventions for clients unable to conceptualize the components of treatment;

(11) if treatment groups are utilized for developmentally delayed clients, groups shall not be less than 30 minutes in length with no more than 8 clients per group;

(12) treating developmentally delayed clients shall be based on a multidisciplinary approach and containment model that includes, but is not limited to, the client, treatment provider, supervision officer, and if applicable the following: the family, guardian, custodian, school officials, law enforcement, child protective services, and the victim's therapist;

(13) a written initial individualized treatment plan shall identify the issues, intervention strategies, and goals of treatment and shall be prepared for each client within 60 days of beginning treatment. Treatment plans should be updated at least annually;

(14) progress, or lack of progress needs to be based on clearly specified objective criteria, refusal or failure to attend or participate in treatment, failing to abide by the client's treatment plans and/or contracts, or any disclosures regarding violations of supervision shall be clearly documented in treatment records. This information shall be provided and communicated to the appropriate supervising officer in the justice system according to the referring agency policy or pursuant to the court order;

(15) monthly treatment progress reports shall be distributed to the supervision officer, referring agency, and/or court. Discharge reports shall be issued according to the referring agency policy or pursuant to the court order;

(16) when a client has attained the goals outlined in the individualized treatment plan, there should be a gradual and commensurate adjustment of interventions;

(17) some degree of denial shall not preclude a client from entering treatment, although the degree of denial shall be a factor in identifying the most appropriate form and location of treatment;

(18) clients who remain in significant denial and/or are extremely resistant to treatment after a period of time determined by the treatment provider and supervision team should be reassessed for appropriate placement in alternative treatment and/or interventions;

(19) modifications in treatment and in expectations for treatment outcomes may be required in instances of persistent denial;

(20) when treating developmentally delayed clients who have committed a sexual offense, a licensee shall recognize their vulnerabilities and their risk of victimization by non-delayed clients;

(21) licensees shall communicate and exchange information with the Department of Family Protective Services-Child Protective Services, Child Care Licensing, and with appropriate agencies regarding the safety of a child or children in the primary residence in which a sex offender resides;

(22) the safety of the children takes precedence and the highest priority shall be given to the rights, well-being, and safety of children when making decisions about contact between the client and children. If the client has a history of deviant sexual arousal and/or deviant sexual

interest to or reported fantasies of sexual contact with children, client should be restricted from having access to children. Supervised visits may be considered if:

(A) it is determined that sufficient safeguards exist to protect the child(ren);

(B) the sex offender has demonstrated control over deviant arousal;

(C) it does not impede the sex offender's progress in treatment; and

(D) if it is compliant with the court mandated or Texas Board of Pardons and Paroles ordered conditions.

(23) the licensee shall make every effort to collaborate with the victim's therapist in making decisions regarding communication, visits and reunification. Contact shall be arranged in a manner that ensures the child/victim safety first;

(24) if reunification is deemed appropriate by the victim's therapist, the process shall be closely supervised. There shall be provisions for monitoring behavior and reporting rule violations. A victim's comfort and safety shall be assessed on a continuing basis; and

(25) licensees shall be familiar with and adhere to §810.64(e) of this title (relating to Assessment and Treatment Standards for Adult Sex Offenders) and §810.65(j) of this title (relating to Assessment and Treatment Standards for Juveniles with Sexual Behavior Problems).

§810.68. Issues to Be Addressed in Treatment (Adults and Juveniles). Licensees shall subscribe and adhere to the following tenets as they relate to and are applicable to each client:

(1) Arousal or Impulse Control. Control of deviant arousal, fantasies, and impulses should be a priority in treating adult sex offenders and juveniles with sexual behavior problems. Arousal or impulse control may require periodic "follow up" sessions for the duration of a client's life. Effective arousal or impulse control shall include methods to control spontaneous deviant fantasies and to minimize contact with objects or persons within the deviant fantasies. Arousal or impulse control should proceed from the most effective methods to less effective methods.

(2) Cognitive Behavioral Treatment. Cognitive behavioral treatment shall identify, assess, and modify cognitions that promote sexual deviance. Cognitive distortions shall be addressed and include the thoughts and attitudes that allow offenders to justify, rationalize, and minimize the impact of their deviant behavior.

(3) Sexual Offense Sequence/Reoffense Prevention. Treatment shall address the sequence of behaviors, emotions, and cognitions which are identifiable and which precede deviant sexual behavior in a predictable manner. Autobiographies, sexual history polygraphs, offense reports, interviews and cognitive-behavioral chains shall be used to identify antecedents to offending. Treatment shall include a formal multi-level reoffense prevention plan to address the multiple issues in reducing recidivism.

(4) Victim Empathy. Treatment shall focus on highlighting the consequences of victimization and sensitize the offender to the harm he or she has committed. Treatment providers should utilize analogous experiences when treating juveniles and should recognize that cognitive development impacts the ability to empathize.

(5) Biomedical Approaches. Psychopharmacological agents should only be utilized in select cases. Use of these agents shall never be the only method of treatment. Physical or chemical castration shall be utilized only as an adjunct to treatment and not in lieu of treatment.

(6) Increasing Social Competence. Treatment should include, but not be limited to, improving interpersonal communication skills, problem solving, assertiveness, and developing and sustaining reciprocal pro-social friendships and social support networks. Treatment shall assist in the clients' ability to deal effectively with social situations and develop meaningful relationships with others.

(7) Chaperones. Licensees shall assist in the selection and education of the potential chaperones for contacts between the adult client and children. Potential chaperones shall only be adults who accept and understand the client's present sexual offense, past sexual offending, and the potential for sexual re-offense. Licensees shall ensure potential chaperones are educated regarding the client's sexual history, treatment and supervision conditions, antecedents to sexual offending, safety plans, reoffense prevention plans, and reporting procedures. Licensees shall review a detailed safety plan with the child's non-offending parent or legal guardian that describes the appropriate levels of supervision for contact, privacy, discipline practice, sexual education, appropriate dress, hygiene, bedtime routines, conditions and limits that may apply, and how contact will be terminated if it is no longer appropriate for the child.

(8) Improving Primary Relationships. Treatment providers should involve the current partners or family members in treatment to assist the client in developing a functional lifestyle and maintain reciprocal relationships with an appropriate partner. Family members may be involved in the following but not limited to the assessment, treatment, and addressing the juvenile's sex education needs, appropriate dating skills, and relationship skills.

(9) Co-morbid Diagnosis. Treatment provider should make appropriate referral when there are sufficient signs and symptoms to merit additional diagnosis criteria. The most common are substance abuse and affective disorders. The co-morbid diagnosis shall be treated with the appropriate therapies concomitantly with the treatment for sex offending behavior except in the case of schizophrenia where the anti-psychotic therapy would take precedence.

(10) Couples/Family Therapy. Individual, couple, family, and sibling therapy, non-offending spouse groups, and/or parents or legal guardians of victims' groups shall prepare the partner and family for the issues and methods involved in sex offender treatment. A predetermined integration sequence shall be followed which addresses role and boundary issues if the client is to reside with victims or children. This shall include close supervision and a multitude of safeguards for the protection of children.

(11) Support Systems. Social support networks should assist the adult sex offender and juvenile in avoiding and coping with antecedents to sexual deviance and address the issues related to risk. The support system shall include individuals from the adult sex offender and juvenile's daily life (for example: family, extended family, guardian, custodian, friends, co-workers, and church members).

(12) Adjunct Therapies. Adjunct therapy may include, but is not limited to, substance abuse, anger management, stress management, social skills, sex education, or self-help groups and shall primarily be used as adjuncts to a comprehensive treatment program in reducing the client's risk to re-offend. Other licensed mental health professionals may conduct adjunct therapies.

(13) After-Care Treatment. After-care treatment shall involve periodic "follow up" sessions to reinforce and assess maintenance of positive gains made during treatment. After-care treatment can be facilitated by involving the treatment group, supervision personnel, support systems, polygraphs, phallometric assessment, and visual reaction time assessment.

SUBCHAPTER D. CODE OF PROFESSIONAL ETHICS.

§810.91. General. Licensees shall constitute a professional discipline which shall have a membership committed to establishing and maintaining the highest level of professional standards related to the assessment and treatment of adult sex offenders and juveniles with sexual behavior problems. In order to maintain the highest ethical standard of service and consumer protection, licensees shall be committed to the following principles designed to ensure the maximum level of public confidence.

§810.92. Code of Ethics.

(a) Professional Conduct. Licensees shall:

(1) not discriminate against clients or withhold professional services to anyone, regardless of age, race, national origin, religion, sex, disability, political affiliation, social or economic status, sexual orientation, or proscribed by law. A licensee shall not allow personal feelings related to a client's alleged or actual crimes or behavior to interfere with professional judgment and objectivity;

(2) make an appropriate referral when a licensee cannot offer services to a client. Each licensee shall facilitate follow-up services for clients who transition from one program or one jurisdiction to another which includes a written summary of the assessment of risk, offending pattern, level of participation, relevant problems and treatment needs, client strengths and needs, support group, and recommendations;

(3) perform their professional duties with the highest level of integrity and appropriate confidentiality within the scope of their statutory responsibilities;

(4) not hesitate to seek assistance from other professional disciplines when

circumstances dictate;

(5) report unethical, incompetent, or dishonorable practices to the council;

(6) refrain from using his or her professional relationship, to further personal, religious, political, or economic interests, other than customary professional fees;

(7) have an obligation to engage in continuing education and professional growth;

(8) refrain from diagnosing, treating, or making recommendations outside the scope of the licensee's competence;

(9) be knowledgeable of legal statutes and scientific data relevant to the assessment and treatment of clients; and

(10) display or provide in writing the address and telephone number of the council in all sites where sex offender treatment services are provided for the purpose of directing complaints to the council.

(b) Client Relationships. Licensees shall:

(1) treat all clients with dignity and respect and shall not exaggerate the efficacy of treatment services that cannot be supported by empirical literature;

(2) recognize the importance pertaining to financial matters with clientele. Arrangements for payments should be settled at the beginning of an assessment or a therapeutic relationship;

(3) not engage in dual relationships with clients or former clients. Examples of dual relationships include, but are not limited to, the following: treatment of family members, close friends, employees, supervisors, supervisees, personal contacts outside the scope of treatment, contracting or subcontracting for work, and relationships outside of treatment such as business or social;

(4) not engage in sexual harassment and/or a sexual or intimate relationship with any client who is receiving or has received professional services, regardless of whether payment for the services was involved. Licensees shall not engage in sexual intimacy with a client's or former client's family members;

(5) if services must be withdrawn, give consideration to all factors in the situation in order to minimize possible effects on the client;

(6) notify the appropriate supervising agency or court if the licensee anticipates the termination or disruption of services to a client and provide for transfer, referral, or continuation of service in keeping with the client's needs, preferences, and supervision requirements;

(7) terminate a professional counseling relationship when it is reasonably clear that the client is not benefiting from treatment unless the agency is mandated to render services. When treatment is still indicated, the licensee shall take reasonable steps to facilitate the transfer to an appropriate referral source. All clients on supervision shall be referred back to the criminal justice department or to the juvenile justice system;

(8) serve clients of a colleague during a temporary absence or emergency with the same consideration of that afforded any client;

(9) not engage in any action in their professional role which violates or diminishes the legal and civil rights of clients or victims who may be affected by their actions;

(10) not give or accept a gift from a client or a relative of a client, enter into a barter for services, or borrow or lend money or items of value to clients or relatives of clients or accept payment in the form of services rendered by a client; and

(11) not knowingly offer or provide counseling, treatment, or other professional interventions to an individual concurrently receiving sex offender treatment from another licensed sex offender treatment provider except with that provider's knowledge and approval. If a licensee learns of such concurrent counseling, treatment, or other professional interventions, the licensee shall take immediate and reasonable action to inform the other mental health service provider.

(c) Confidentiality. Licensees shall:

(1) maintain records on each client for a period of no less than 10 years after the last date of service to the client. Client records shall include, at a minimum, client demographic information; release of confidential information signed by the client which clearly describes limits of confidentiality; test results from evaluations conducted by licensee, including test protocols; and monthly treatment reports which detail client attendance, treatment progress, and problematic behaviors which may contribute to risk for re-offense. Licensees shall maintain and store records on each client to ensure safety and confidentiality in accordance with the highest professional and legal standards including but not limited to HIPAA, the Texas Health and Safety Code, Chapter 611, and laws pertaining to victims rights (Federal Justice for All Act and Texas Code of Criminal Procedure, Chapter 56); licensees shall maintain the confidentiality of victims and shall not provide victim information to clients or others not specified in Occupations Code, Chapter 109 (§109.051 and §109.052);

(2) be responsible for informing clients of the exceptions to confidentiality. Clients shall be informed of any circumstances which may prompt an exception to the agreed upon confidentiality;

(3) understand that clients have the right to refuse to participate in or attend treatment and licensees shall inform the client of the potential consequences of such a decision;

(4) clearly communicate to the client any conflicts of interest or dual relationships which affect the licensee's current relationship with a client;

(5) obtain written permission and informed consent from the client before any data may be divulged to third parties;

(6) respond to an inquiry for information with a written release by the client with only data germane to the purpose of the inquiry. Every effort shall be made to avoid an undue invasion of privacy for the client;

(7) not communicate information to persons outside the containment model without the written consent of the client unless there exists a clear and immediate danger to a person from the client; and

(8) be knowledgeable of all statutes which govern the conduct of licensee's professional practice and the duty to report suspected abuse or neglect to law enforcement (for example: Family Code, §261.101 et. seq.).

(d) Assessments. Licensees shall:

(1) not provide an assessment or re-assessment for the purpose of determining if an individual is guilty or innocent of a specific sexual crime. Psychological profiles shall not be used to prove or disprove an individual's propensity to act in a sexually deviant manner or an individual's guilt or innocence. Physiological methods or sexual arousal and preference assessments shall not be used to prove an individual's guilt or innocence of a specific sex crime;

(2) recognize, and when providing expert testimony, acknowledge that there is no known psychological or physiological test, profile, assessment procedure, or combination of such tools that prove or disprove whether the client has committed a specific sexual crime;

(3) make every effort possible to promote the client's non-offending behavior and act in the best interest of the client, as long as others are not placed in an identifiable risk.

(4) guard against the misuse of assessment data;

(5) and respect a client's right to know the results, the interpretations made, and the basis for the conclusions and recommendations drawn from such assessments;

(6) respect the right of a client to have a complete explanation, in language which the client is able to understand, the nature and purpose of the methodologies, and any foreseeable effects of the assessment unless the client agrees to an exception in advance;

(7) obtain informed written consent from a client prior to conducting a physiological assessment or engaging in treatment unless mandated by court order;

(8) safeguard sexual arousal assessment testing and treatment materials. Each licensee shall recognize the sensitivity of this material and use it only for the purpose for which it is intended in a controlled phallometric assessment. Licensees shall not release assessment or treatment materials to persons not involved in the management or containment of the client who lack proper training and credentials, or who would misinterpret or improperly use such stimulus materials;

(9) have specific training in the administration and evaluation of any assessment tool that is utilized. Licensees shall not release assessment raw data to any person not qualified to interpret the data;

(10) Licensees shall recognize that any decision regarding refusal to release records or information shall be subject to the applicable state law;

(11) be informed of the client's rights, including the client's right to confidentiality;

(12) not determine a person's degree of sexual dangerousness, suitability for treatment, or other forensic referral question based solely by one assessment instrument. Assessment data shall be properly integrated within a comprehensive assessment, the components of which are determined by a person who has specific training and expertise in making such assessments;

(13) indicate any reservations in reporting assessment results that may exist regarding validity or reliability because of the circumstances of the assessment or the absence of comparative norms for the person being tested. Each licensee shall make an attempt to ensure that assessment results and interpretations are not misunderstood or misused by others. Proper qualifications shall be made with regard to prediction and to the generalized ability of data issued in order to not mislead the consumer of the report;

(14) understand it is ethical to address an issue regarding the probability of a client committing certain criminal acts within a certain period of time; it is unethical for a licensee to state that an individual is not at risk to reoffend sexually;

(15) if a licensee decides that it is appropriate to offer a prediction of criminal behavior on the basis of a comprehensive assessment in a given case, the licensee shall specify clearly:

(A) the acts being predicted and supportive research;

(B) the estimated probability that these acts will occur during a given period of time; and

(C) the facts and data on which these empirical predictions are based; and

(16) be educated and familiar with the assessment or treatment procedures and data used by another licensee before providing any public comment or testimony pertaining to the validity, reliability, or accuracy of such information.

(e) Professional Relationships.

(1) Each licensee shall act with proper regard for the needs, special competencies, and perspectives of colleagues who assess, treat, and manage sex offenders and other mental health professionals.

(2) Each licensee is encouraged to affiliate with professional groups, organizations, or agencies working in the field of sex offender assessment and treatment.

(f) Research and Publications.

(1) Licensees shall be obligated to protect the safety of the licensee's research subjects. Provisions of the human subjects experimental policy shall prevail as specified by the current United States Department of Health and Human Services guidelines.

(2) Licensees shall evaluate the ethical implications of possible research and ensure that ethical practices are enforced in conducting such research.

(3) The practice of informed consent prevails. A research participant shall have the freedom to decline to participate in or withdraw from a research project at any time without any prejudicial consequences.

(4) The research subject shall be protected from physical and mental discomfort, harm, and danger that may result from research procedures.

(5) Publication credit shall be assigned to those who have contributed to a publication in proportion to their contribution, and in accordance with customary publication practices.

(g) Public Information and Advertising. All professional presentations to the public shall be governed by the following standards on public information and advertising. Licensees shall:

(1) have a responsibility to the public to engage in appropriate informational activities and to avoid misrepresentation or misleading statements. Advertisements and public communications shall be formulated to convey accurate information. Self-praising and testimonials shall be avoided;

(2) not establish licensee-client relationships as the result of pressure, deception, or exploitation of the vulnerability of clients;

(3) not make any representations that the licensee is a partner or associate of any agency or firm if the licensee is, in fact, not acting in that capacity (for example: a person engaged in private practice who is also employed at a state hospital should clearly communicate to a prospective client in private practice that he is not acting on behalf of a state hospital);

(4) be truthful in the representation of the licensee's professional background, training, and status. Each licensee shall indicate any limitations in his or her practice;

(5) not represent their affiliation with any organization or agency in a manner, which falsely implies sponsorship or certification by that organization; and

(6) not knowingly make a representation about the licensee's ability, background, or experience, or about that of a partner or associate, or about a fee or any other aspect of a proposed professional engagement that is false, fraudulent, misleading, or deceptive. A false, fraudulent, misleading, or deceptive statement or claim is defined as a statement or claim which:

(A) contains a material misrepresentation of fact;

(B) omits any material or statement of fact which is necessary to make the statement, in light of all circumstances, not misleading; or

(C) is intended or likely to create an unjustified expectation concerning the licensee, or treatment services.

SUBCHAPTER E. CIVIL COMMITMENT GENERAL PROVISIONS.

§810.121. Introduction.

(a) General. The provisions of Subchapters E-J of this chapter govern the procedures relating to the civil commitment of sexually violent predators in the State of Texas and the development of a case management system, which provides appropriate and necessary treatment and supervision.

(b) Construction. These sections cover definitions, criteria for case managers, treatment providers, and biennial examination experts; guidelines for the supervised housing of sexually violent predators; outpatient treatment plans and standards of care; civil commitment requirements, supervision and tracking services; the exchange and release of information relating to sexually violent predators; commitment review procedures; petitions for release; and immunity from liability for good faith conduct.

(c) History. The legislature finds that a small but extremely dangerous group of sexually violent predators exist and that those predators have a behavioral abnormality that is not amenable to traditional mental illness treatment modalities and that makes the predators likely to engage in repeated predatory acts of sexual violence. The legislature finds that the existing involuntary commitment provisions of Health and Safety Code, §571.001 et seq., Subtitle C, Title 7, are inadequate to address the risk of repeated predatory behavior that sexually violent predators pose to society. The legislature further finds that treatment modalities for sexually violent predators are different from the traditional treatment modalities for persons appropriate for involuntary commitment under Subtitle C, Title 7. The legislature finds that a civil commitment procedure for the long-term supervision and treatment of sexually violent predators is necessary and in the interest of the state.

§810.122. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--Health and Safety Code, Chapter 841, Civil Commitment of Sexually Violent Predators.

(2) Behavioral abnormality--A congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense to the extent that the person becomes a menace to the health and safety of another person.

(3) Biennial examination expert--A person or persons employed by or under contract with the council to conduct a biennial examination to assess any change in the behavioral abnormality for a person committed under the Act, §841.081.

(4) Case Manager--A person employed by or under contract with the council to perform duties related to outpatient treatment and supervision of a person committed under this chapter.

(5) Council--The Council on Sex Offender Treatment.

(6) Case Management Team--All professionals involved in the assessment, treatment, supervision, monitoring, residential housing of the client, or other approved professionals. The case manager shall act as the chairperson of the team.

(7) Multidisciplinary Team (MDT)--Members of the Council on Sex Offender Treatment (two), Texas Department of Criminal Justice (one), Texas Department of Criminal Justice-Victim Service Division (one), Texas Department Public Safety (one), and Texas Department of State Health Services-Community Mental Health Division (two). The team assesses whether a person is a repeat sexually violent offender and whether the person is likely to commit a sexually violent offense after release or discharge; gives notice of its findings to the Texas Department of Criminal Justice or to the Department of State Health Services-Community Mental Health Division; and recommends to either agency that the person be assessed for a behavioral abnormality.

(8) Predatory Act--An act directed toward individuals, including family members, for the primary purpose of victimization.

(9) Sexually Violent Offense--

(A) an offense under the Penal Code, §§21.02, 21.11(a)(1), 22.011, or 22.021;

(B) an offense under the Penal Code, §20.04(a)(4), if the defendant committed the offense with the intent to violate or abuse the victim sexually;

(C) an offense under the Penal Code, §30.02, if the offense is punishable under subsection (d) of that section and the defendant committed the offense with the intent to commit an offense listed in subparagraphs (A) or (B) of this paragraph;

(D) an offense under Penal Code, §19.02 or §19.03, that, during the guilt or innocence phase or the punishment phase for the offense, during the adjudication or disposition of delinquent conduct constituting the offense, or subsequently during a civil commitment proceeding under Health and Safety Code, Chapter 841, Subchapter D, is determined beyond a reasonable doubt to have been based on sexually motivated conduct;

(E) an attempt, conspiracy, or solicitation, as defined by the Penal Code, Chapter 15, to commit an offense listed in subparagraph (A), (B), (C), or (D) of this paragraph;

(F) an offense under prior state law that contains elements substantially similar to the elements of an offense listed in subparagraph (A), (B), (C), (D), or (E) of this paragraph; or

(G) an offense under the law of another state, federal law, or the Uniform Code of Military Justice that contains elements substantially similar to the elements of an offense listed in subparagraph (A), (B), (C), (D), or (E) of this paragraph.

(10) Sexually Violent Predator (SVP)--A person is a sexually violent predator for the purpose of this chapter if the person: is a repeat sexually violent offender; and suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

SUBCHAPTER F. CIVIL COMMITMENT.

§810.151. Administration of the Act. The Council on Sex Offender Treatment (council) is responsible for providing appropriate and necessary treatment and supervision through the case management system. The council shall hire program specialists and/or contract for the services of case managers, treatment providers, global positioning tracking providers, biennial examination experts, transportation providers, and residential housing providers. The council by rule shall administer this chapter. Rules adopted by the council under this section must be consistent with the purposes of this chapter. The council by rule shall develop standards of care and case management for persons committed under this chapter.

§810.152. Civil Commitment of Sexually Violent Predators. If at a trial conducted under Health and Safety Code, Chapter 841, Subchapter D, the judge or jury determines that the person is a sexually violent predator, the judge shall commit the person for outpatient treatment and supervision to be coordinated by the case manager. The commitment order is effective immediately on entry of the order, except that the outpatient treatment and supervision begins on the person's release from a secure correctional facility or discharge from a state hospital and continues until the person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence. At any time after entry of a commitment, the case manager may provide to the person instruction regarding the requirements associated with the order, regardless of whether the person is incarcerated at the time of the instruction.

§810.153. Outpatient Treatment and Supervision Program. The council by rule shall develop

standards of care and case management for persons committed under this chapter.

(1) The council shall approve and contract for the provision of a treatment plan for the committed person to be developed by the treatment provider. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The treatment provider may receive annual compensation in an amount not to exceed \$6,000 for providing the required treatment.

(2) The case manager shall provide supervision to the person. The provision of supervision shall include a tracking service and, if required by court order, supervised housing.

(3) The council shall enter into appropriate memoranda of understanding with the Texas Department of Public Safety for the provision of a tracking service and for assistance in the preparation of criminal complaints, warrants, and related documents and in the apprehension and arrest of a person.

(4) Notwithstanding paragraph (3) of this section or any other provision of this subchapter, the council shall provide through the case management system any supervision or tracking service required under this chapter for persons residing in Dallas, Harris or Tarrant County. The council shall provide the tracking service under this subsection through two employees of the Department of State Health Services. Any tracking personnel used by the department for purposes of this chapter must be approved by the council or the council's designee.

(5) If the equipment necessary to implement the tracking service is available through a contract entered into by the comptroller, the Department of Public Safety or the council, as appropriate, shall acquire that equipment through that contract.

(6) The council shall enter into appropriate memoranda of understanding for any necessary supervised housing. The council shall reimburse the applicable provider for housing costs under this section. The committed person may not be housed for any period of time in a mental health facility, state school, or community center, unless the placement results from a commitment of the person to that facility, school, or center by governmental action.

(7) The case manager shall coordinate the outpatient treatment and supervision required by this chapter, including performing a periodic assessment of the success of that treatment and supervision. The case manager shall make timely recommendations to the judge on whether to allow the committed person to change residence or to leave the state and on any other appropriate matters. The case manager shall provide a report to the council, semiannually or more frequently as necessary, which must include: any known change in the person's status that affects proper treatment and supervision; and any recommendations made to the judge.

SUBCHAPTER H. CIVIL COMMITMENT REVIEW.

§810.211. Biennial Examination.

(a) A person committed under Health and Safety Code, §841.081, shall receive a biennial examination. The council shall contract for an expert to perform the examination.

(b) In preparation for a judicial review conducted under Health and Safety Code, §841.102, the case manager shall provide a report of the biennial examination to the judge. The report must include consideration of whether to modify a requirement imposed on the person under this chapter and whether to release the person from all requirements imposed on the person under this chapter. The case manager shall provide a copy of the report to the council.

SUBCHAPTER I. PETITION FOR RELEASE.

§810.241. Authorized Petition for Release. If the case manager determines that the committed person's behavioral abnormality has changed to the extent that the person is no longer likely to engage in a predatory act of sexual violence, the case manager shall authorize the person to petition the court for release.

§810.242. Unauthorized Petition for Release. On a person's commitment and annually thereafter, the case manager shall provide the person with written notice of the person's right to file with the court and without the case manager's authorization a petition for release.

SUBCHAPTER J. MISCELLANEOUS PROVISIONS.

§810.271. Release and Exchange of Information. To protect the public and to enable an assessment or determination relating to whether a person is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to an entity charged with making an assessment or determination under this chapter.

(1) To protect the public and to enable the provision of supervision and treatment to a person who is a sexually violent predator, any entity that possesses relevant information relating to the person shall release the information to the case manager.

(2) On the written request of any attorney for another state or for a political subdivision in another state, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state shall release to the attorney any available information relating to a person that is sought in connection with an attempt to civilly commit the person as a sexually violent predator in another state.

(3) To protect the public and to enable an assessment or determination relating to whether a person is a sexually violent predator or to enable the provision of supervision and treatment to a person who is a sexually violent predator, the Texas Department of Criminal Justice, the council, a service provider contracting with one of those agencies, the multidisciplinary team, and the attorney representing the state may exchange any available information relating to the person.

(4) Information subject to release or exchange under this section includes information

relating to the supervision, treatment, criminal history, or physical or mental health of the person, as appropriate, regardless of whether the information is otherwise confidential and regardless of when the information was created or collected. The person's consent is not required for release or exchange of information under this section.

(5) Personal victim information including a home address, home telephone number, and social security number that identifies the victim(s) of a person subject to a civil commitment proceeding under this Act is privileged from discovery by that person.

§810.272. Council Appointment of Multidisciplinary Members. The council shall appoint members of the council and alternates, to serve as member(s) of the Multidisciplinary Team (team) as defined in the Health and Safety Code, §841.022. The council member(s) or designee(s) who serve on the team shall keep the council informed of the actions taken by the team by providing the council's Executive Director with periodic reports as required.

§810.273. Cost of Tracking Service. Notwithstanding Health and Safety Code, §841.146(c), a civilly committed person who is not indigent is responsible for the cost of the tracking service required by Health and Safety Code, §841.082, and monthly shall pay to the council the amount that the council determines will be necessary to defray the cost of operating the service with respect to the person during the subsequent month. The council immediately shall transfer the money to the appropriate service provider.

SUBCHAPTER K. CRIMINAL BACKGROUND CHECK OF POTENTIAL EMPLOYEES.

§810.281. Access to Criminal History Records. The council is authorized to obtain information from the Texas Department of Public Safety or the Federal Bureau of Investigation about a conviction or deferred adjudication that relates to an applicant seeking employment with the Department of State Health Services. The council is authorized to obtain a criminal history record from any law enforcement agencies. The criminal history record information received under this section is for the exclusive use of the council and is privileged and confidential. The criminal history record information shall not be released or otherwise disclosed to any person or agency except on court order or with the written consent of the applicant.

§810.282. Records. All other records of the council that are not made confidential by other law are open to inspection by the public during regular office hours. The content of the criminal background checks on each potential applicant are not public records and are confidential. Unless expressed in writing by the chairperson of the council, the executive director and the executive director's designee are the only staff authorized to have daily access to the criminal history records. These records will be maintained in separate files and not in the licensee files.

§810.283. Destruction of Criminal History Records. The council shall destroy conviction/ adjudication information relating to a person after the council makes a decision on the eligibility of the applicant. The council shall destroy the information provided by the Texas Department of Public Safety, the Federal Bureau of Investigation or any other law enforcement agency. In the event that information is collected online, all files created will be destroyed in the aforementioned timeframe.

SUBCHAPTER L. EARLY TERMINATION FOR CERTAIN PERSONS' OBLIGATION TO REGISTER.

§810.301. Introduction.

(a) General. The provisions of this subchapter govern the procedures relating to the deregistration of individuals on the public registry for sex offenders in the State of Texas.

(b) Construction. These sections cover definitions, criteria for deregistration; guidelines for conducting deregistration assessments; and, the due process for determining if a registrant may deregister.

§810.302. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Act--Code of Criminal Procedure, §§62.401 et. seq. Termination of Certain Persons' Obligation to Register.

(2) Contact with Registrant: Clinical Interview--Face to face interview between the Licensed Sex Offender Treatment Provider and the Registrant.

(3) Deregistration--The early termination of an individual's obligation to register.

(4) Deregistration Candidate--An individual required to register who is undergoing a deregistration evaluation.

(5) Deregistration Criteria--The criteria established by the council to determine if a registrant is eligible for early termination of the obligation to register.

(6) Evaluation Specialist--A licensed sex offender treatment provider who is approved by the council to conduct deregistration evaluations.

(7) Instant Offense--The sexual offense that resulted in the registrant being required to be listed or included on the sex offender registry.

(8) Public Registry--The public registry of sex offenders in the State of Texas which is maintained by the Texas Department of Public Safety.

(9) Registrant--An individual who is required under Code of Criminal Procedure, Chapter 62, in the State of Texas.

§810.303. Administration of the Act. The council is responsible for providing the appropriate and necessary guidelines for deregistration including identifying who can deregister, the method where by registrants are evaluated for deregistration and the due process that must be followed to attain deregistration.

§810.304. Deregistration Eligibility. The council shall establish criteria to determine an individual's eligibility for early termination from the obligation to register. The council shall publish a list of eligibility criteria. Prior to participating in a deregistration evaluation, the registrant must obtain approval from the council that he or she is eligible for deregistration.

§810.305. Deregistration Decision Criteria. The council shall establish deregistration evaluation criteria to determine the risk level of the registrant.

§810.306. Evaluation Specialist. The council shall contract with licensed sex offender treatment providers to provide deregistration evaluation services.

§810.307. Deregistration Methodology. The Deregistration Evaluation Specialist shall submit the candidate's deregistration evaluation report to the council. The council shall review the report and determine if the report conforms to council criteria. The council shall certify reports that meet council criteria and send the certified report back to the attorney.

§810.308. Protocol Compliance. The council or its designee shall review each candidate's application and deregistration evaluation report in order to insure that these documents are in compliance with approved methodology and procedures. The council or its designee shall insure that all established requirements have been met by the candidate prior to approving the candidate to undergo a deregistration evaluation. The council or its designee shall also ensure that established deregistration evaluation criteria have been met prior to providing the candidate with the written evaluation report.