



TEXAS DEPARTMENT OF HEALTH  
RULES AND REGULATIONS RELATING TO  
COUNCIL ON SEX OFFENDER TREATMENT

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**Subchapters A through D  
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Subchapter A. SEX OFFENDER TREATMENT PROVIDER  
Registry

§810.1 Introduction.

(a) Purpose. The provisions of this chapter govern the procedures relating to the registration of individuals as sex offender treatment providers in the State of Texas.

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

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

- (1) Act - Texas Civil Statutes, Article 4413(51).
- (2) Board - The Texas Board of Health.
- (3) Council - The Council on Sex Offender Treatment.
- (4) Department - The Texas Department of Health.
- (5) Registrant - A person who is listed in the registry.
- (6) Registry - A database maintained by the council that contains the names of persons who have met the council's criteria in the treatment of sex offenders and who provide mental health or medical services for the rehabilitation of sex offenders.
- (7) Rehabilitation Service - A mental health treatment or medical intervention program designed to treat or remedy a sex offender's mental or medical problem that may relate or contribute to the sex offender's criminal or paraphiliac problem.
- (8) Sex Offender - A person who:
  - (A) is convicted of committing or adjudicated to have committed a sex crime under the laws of a state or under federal law, including a conviction of a sex crime under the uniform code of military justice;
  - (B) is awarded deferred adjudication for a sex crime under the laws of a state or under federal law;
  - (C) admits to having violated the law of a state or federal law with regard to sexual conduct; or
  - (D) experiences or evidences a paraphiliac disorder as

defined by the current version of the Diagnostic and Statistical Manual (DSM), as published by the American Psychiatric Association Press, including any subsequent revision of the manual, which may place a person at risk for the violation of sex offender laws.

(9) Fiscal year- September 1 through August 31.

§810.3 Registry Criteria. The council maintains a database of registrants whose experience in the rehabilitation of sex offenders may vary. The council shall recognize the experience and training of treatment providers in either one of two categories. These may be "Registered Sex Offender Provider" or "Affiliate Sex Offender Treatment Provider."

(1) Registered Sex Offender Treatment Provider (RSOTP). The council may waive any prerequisite to registration for an applicant after receiving the applicant's credentials and determining that the applicant holds a valid registration from another state that has registration requirements substantially equivalent to those of this state. To be eligible as a RSOTP, the applicant must meet all of the following criteria:

(A) be licensed or certified to practice as a physician, psychiatrist, psychologist, licensed professional counselor, licensed marriage and family therapist, licensed master social worker-advanced clinical practitioner, or advanced nurse practitioner recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, and who provides mental health or medical services for the rehabilitation of sex offenders. The license status must be current and active.

(B) satisfy the experience and training required below:

(I) possess a minimum of 1000 hours of clinical experience in the areas of assessment and treatment of sex offenders, obtained within a consecutive seven-year period, and provide two reference letters from professionals who know of the applicant's clinical work in sex offender treatment; and

(ii) possess a minimum of 40 hours of documented continuing education training, as defined in §810.7 of this title (relating to Documentation of Experience and Training), obtained within three years prior to application date, in the specific area of sex offender treatment and evaluation. Of the initial 40 hours training required, 30 hours or 75% must be in sex offender rehabilitation training. Ten hours or 25% must be in sexual assault issues and/or sexual assault victim related training;

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

(D) comply with the following. Persons making initial application or renewing their eligibility for the registry:

(I) must not have been convicted of any felony, or of any misdemeanor involving a sex offense, nor have received deferred adjudication for a sex offense, unless sufficient evidence of rehabilitation has been established as determined by the council;

(ii) must not have had licensure revoked,

canceled, suspended, or placed on probationary status by any professional licensing body, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iii) must not have been determined by any professional licensing body to have engaged in unprofessional or unethical conduct, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iv) must not have been determined by the council to have engaged in deceit or fraud in connection with the delivery of services or documentation of registry requirements or registry eligibility;

(v) must submit themselves to a criminal history background check. An applicant may be required to submit a complete set of fingerprints 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. If fingerprints are requested, the fingerprints must be taken by a peace officer or a person authorized by the council and must be placed on a form prescribed by the Texas Department of Public Safety; and

(vi) must not have violated any rule adopted by the council;

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

(F) submit a copy of his or her professional license, as set out in subparagraph (A) of this paragraph, indicating the applicant is current and in good standing;

(G) sign the application form(s) and attest to the accuracy of the application before a notary public; 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 an ASOTP, the applicant must meet all of the following criteria:

(A) be licensed or certified to practice as a physician, psychiatrist, psychologist, psychological associate, licensed professional counselor, licensed marriage and family therapist, licensed master social worker, advanced nurse practitioner, licensed marriage and family therapist associate, licensed professional counselor intern, provisionally licensed psychologist, recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, who provides mental health or medical services for the rehabilitation of sex offenders;

(B) satisfy the experience and training required below:

(I) possess a minimum of 250 hours of clinical experience in the areas of assessment and treatment of sex offenders, provide two reference letters from professionals who know of the applicant's clinical work in sex offender treatment;

(ii) be supervised by an RSOTP in accordance with paragraph (3)(B) of this subsection until RSOTP status is

reached; and

(iii) possess a minimum of 40 hours of documented continuing education training, as defined in §810.7 of this title, obtained within three years prior to application date, in the specific area of sex offender treatment and evaluation. Of the initial 40 hours training required, 30 hours or 75% must be in sex offender rehabilitation training. Ten hours or 25% must be in sexual assault issues and/or sexual assault victim related training;

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

(D) comply with the following. Persons making initial application or renewing their eligibility for the registry:

(I) must not have been convicted of any felony, or of any misdemeanor involving a sex offense, nor have received deferred adjudication for a sex offense, unless sufficient evidence of rehabilitation has been established as determined by the council;

(ii) must not have had licensure revoked, canceled, suspended, or placed on probationary status by any professional licensing body, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iii) must not have been determined by any professional licensing body to have engaged in unprofessional or unethical conduct, unless sufficient evidence of rehabilitation has been established as determined by the council;

(iv) must not have been determined by the council to have engaged in deceit or fraud in connection with the delivery of services or documentation of registry requirements of registry eligibility;

(v) must submit themselves to a criminal history background check. An applicant may be required to submit a complete set of fingerprints 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. If fingerprints are requested, the fingerprints must be taken by a peace officer or a person authorized by the council and must be placed on a form prescribed by the Texas Department of Public Safety; and

(vi) must not have violated any rule adopted by the council;

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

(F) submit a copy of his or her professional license or certification as set out in subparagraph (A) of this paragraph, indicating the applicant is current and in good standing;

(G) sign the application form(s) and attest to the accuracy of the application in the presence of a notary public; and

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

(3) Supervision. All ASOTP's providing any sex offender treatment must be supervised. Supervision will include the

following.

(A) An ASOTP providing any sex offender treatment is required to be under the supervision of a RSOTP. The ASOTP must provide a notarized copy of supervision documentation annually, to the council during the renewal period.

(B) The ASOTP must receive face-to-face supervision at least one hour per month, or if providing more than 20 hours of direct clinical sex offender treatment per month, the ASOTP must receive one hour of supervision per every 20 hours of sex offender treatment provided.

(C) The supervising RSOTP must submit annual documentation to the council at the time of their renewal; the documentation will contain the name of the ASOTP's that have been supervised during the year. The supervising RSOTP will be required to use a form provided by the council.

(4) Registration Certificates. Upon successful completion of the application or renewal process, registrants will receive an official certificate from the council. This certificate must be displayed at all locations where sex offender treatment is provided. Duplicate certificates may be obtained for this purpose.

(A) The Council of Sex Offender Treatment Providers (Council) shall prepare and provide to each registrant a certificate which contains the registrants name and certificate number.

(B) A registrant shall not display a registration certificate which has been reproduced or is expired, suspended, or revoked.

(C) Any certificate issued by the council remains the property of the council and must be surrendered to the council upon demand.

(D) The address and telephone number of the council must also be displayed at all locations where sex offender treatment for the purpose of directing complaints against the registrant to the council.

(5) 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 registry renewal - 30 days; and

(ii) 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 license or registration - 90

days.

(6) 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 (5)(A) of this section.

(A) The 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 will be denied.

(B) Good cause for exceeding the time is considered to exist if the number of applications for registration 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 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.

(D) The times for contested cases related to the denial of registration or renewal are not included with the times listed in paragraphs (5)(A) and (5)(B) of this subsection. The time for conducting a contested case hearing runs from the date the council receives a written hearing request until the council's decision is final and appealable. A hearing may be completed within three to nine months, but may be shorter or longer depending on the particular circumstances of the hearing, the workload of the department and the scheduling of council meetings.

§810.4 Registry Renewal. In order to maintain eligibility for the registry, the primary license of each renewal must be current and active. All renewal applicants must comply with the following:

(1) Number of continuing education hours. All renewal applicants must submit by the end of every fiscal year, a minimum of 12 hours of continuing education documentation

in sex offender treatment of which three hours may be in sexual assault victim related training, beginning September 1999.

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

(3) Registration certificate expiration. All registration certificates expire September 30, no matter the date of initial registration.

(4) Renewal application postmark date. All renewal applications must be postmarked by September 1 or a late fee shall be assessed.

(5) Continuing education activities. Continuing education activities shall be instructor-directed activities such as conferences, symposia, seminars and workshops and must be accepted or approved for continuing education credits by the licensing agencies regulating professionals listed in §810.3 of this title (relating to Registry Criteria).

(6) Home or self-directed study courses. No home or self-directed study courses will be considered for continuing education hours.

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

(8) Carrying over continuing education hours. No hours may be carried over from one renewal period to another renewal period.

(9) Continuing education extension.

(A) A registrant who has failed to complete the requirements for continuing education (CE) may be granted a 90-day extension by the executive director.

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

(C) If an extension is needed a late fee equal to one-half of the renewal fee stated in §810.5(4) will be assessed.

(D) The next CE period shall begin the day after the CE 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 or who does not request an extension holds an expired registration and may not use the RSOTP or ASOTP credential or certificate.

(10) Completion of continuing education after extension. A registration may be renewed upon completion of the required CE within the given extension period, submission of the registration form, and payment of the applicable late renewal fee.

(11) Failure to complete continuing education. A person who fails to complete CE requirements for renewal and failed to request an extension to the CE period may not renew the registration. The person may obtain a new registration by

complying with the current requirements and procedures for obtaining a license.

§810.5 Fees. The council has established the following registration fees.

(1) All applicants must submit a non-refundable application fee of \$200 and meet the following requirements for consideration and inclusion in the registry:

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

(B) submit the registration fee in the form of a check or money order; and

(C) submit, within 90 calendar days, any documentation required to complete the application if requested by the council, or a new application and registration fee must be submitted.

(2) Additional fees will be charged for Federal Bureau of Investigations and Texas Department of Public Safety criminal background checks. Fees shall be determined by those agencies conducting the investigation.

(3) Renewal forms and information will be mailed to each registrant at least 60 days prior to registration expiration and sent to the registrant's last address of record with the council.

(4) To renew, an RSOTP or an ASOTP must submit an annual renewal fee of \$100 and meet the following requirements.

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

(B) If a registration has been expired for 90 days or less, the late renewal fee is \$150.

(C) If a registration has been expired for longer than 90 days but less than one year, the reinstatement fee is \$200.

§810.6 Application Availability. Applications shall be made available upon receipt of a written or verbal request to the council.

§810.7 Documentation of Experience and Training. In determining the acceptability of the treatment provider's experience and/or training, the council will require documentation of experience and/or training regarding the quality, scope, and nature of the applicant's work in sex offender treatment and rehabilitation. This will include two reference letters from professionals who can attest to the applicant's work in sex offender treatment. The council recognizes continuing education activities that are instructor-directed activities such as conferences, symposia, seminars and workshops and must be accepted or approved for continuing education credits by the licensing agencies regulating professionals listed in §810.3 of this title (relating to Registry Criteria).

§810.8 Revocation, Denial or Non-Renewal of Registration. The council shall have the right to revoke a registration, refuse

to accept a registration, and/or refuse to renew a registration upon proof that the treatment provider has:

(1) been convicted of any felony or a misdemeanor involving a sexual offense, or has ever received deferred adjudication for a sexual offense, unless sufficient evidence of rehabilitation has been established as determined by the council;

(2) had licensure placed on inactive status, not renewed, revoked, canceled, suspended, or placed on probationary status by any professional licensing body, unless sufficient evidence of rehabilitation has been established as determined by the council;

(3) been determined by any professional licensing body to have engaged in unprofessional or unethical conduct, unless sufficient evidence of rehabilitation has been established as determined by the council;

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

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

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

(7) 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).

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

(a) Reporting a complaint. A person wishing to report an alleged violation of the Act or this chapter by a registrant or other person shall notify the executive director. The initial notification may be in writing, by fax, or by personal visit to the council office.

(b) Review of complaint.

(1) The executive director will review the complaint for violations of the Act or any rule adopted by the council.

(2) If it is determined that a violation of the Act or these sections may have occurred, the executive director or executive director's designee will:

(A) refer complaint to registrant's primary licensing agency within 60 days;

(B) notify the registrant or other person in writing, by phone or in person that a complaint has been filed; and

(C) notify the complainant in writing of receipt of the complaint.

(c) Responsibilities of registrant.

(1) A registrant shall cooperate with the council by furnishing 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 registrant shall comply with any order issued by the council relating to the registrant. A licensee shall not

interfere with a council investigation by the willful misrepresentation of facts to the board or its authorized representative or by the use of threats or harassment against any person.

(3) The subject of the complaint will be notified of the allegations either in writing, by phone or in person by the executive director or designee to the case and will be required to provide a sworn response to the allegations within two weeks of that notice.

(4) Failure to respond to the allegation within the two week period is evidence of failure to cooperate with the investigation and subject to disciplinary action.

(d) Actions by the council. The council is authorized to revoke, suspend or refuse to renew a registration, place on probation a person whose registration has been suspended, or reprimand a registrant for a violation of the Act, or a rule of the council.

(e) Probation of a suspension. If the suspension is probated, the council is authorized by §13C(a)(1)-(3) of the Act to impose certain requirements and limitations on a person.

(f) Disciplinary action on primary license. If any professional license of the registrant is revoked or suspended, the council shall propose revocation of registration.

(g) Complaint information. The council shall keep information about each complaint filed with the council. 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 or investigation of the complaint; and

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

(h) Formal hearing.

(1) The formal hearing shall be conducted according to the provisions of the Administrative Procedure Act and this chapter. The parties to a hearing shall be the applicant or registrant and the executive director. The formal hearing shall be 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 registrant, the executive director shall give written notice to the registrant 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 registrant written notice of the opportunity for hearing. The notice shall state the basis for the proposed action. Within 10 days after receipt of the notice, the registrant must give written notice to the executive director that

he or she either waives the hearing or wants the hearing. Receipt of the notice is deemed to occur on the 10th day after the notice is mailed to the registrant's last reported address unless another date of receipt is reflected on a U.S. Postal Service return receipt.

(A) If the registrant fails to request a hearing, the registrant is deemed to have waived the hearing, and a default order may be entered.

(B) If the registrant requests a hearing within 10 days after receiving the notice of opportunity for hearing, the executive director shall initiate formal hearing procedures in accordance with this section.

(I) Final action.

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

(2) During the time of suspension, the former registrant shall return all registration certificates to the council.

(3) If a suspension overlaps a renewal period, the former registrant shall comply with the normal renewal procedures in these sections. The council may 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 registration certificate is revoked is ineligible to apply for registration under this Act for one year from the date of the denial or revocation.

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

(j) Appeal of a decision. A person may appeal a final decision of the council to exclude or remove the person from the registry by filing a petition for judicial review in the manner provided by the Government Code, Chapter 268, Article 1, §2001.176.

## Subchapter B. CRIMINAL BACKGROUND CHECK SECURITY

§810.31. Access to Criminal History Records. The council is authorized to obtain information about the conviction or deferred adjudication that relates to an applicant of the registry and maintained by the Texas Department of Public Safety or the Federal Bureau of Investigation. The council may obtain a criminal history record from any law enforcement agency. 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 may 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 contents of the criminal background check on each registrant are not public records and are confidential under lock and key security. 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 registrant files.

§810.33. Destruction of Criminal History Records. The council will destroy 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 revocation, suspension or refusal to renew a person's registration. The council will shred the information provided by the Texas Department of Public Safety, the Federal Bureau of Investigation or any other law enforcement agency, and the submitted applicant's finger print card.

§810.34. Frequency of Criminal Background Check. The council will conduct a criminal background check on every new applicant, randomly at the time of renewal, and as necessary on all others.

#### Subchapter C. STANDARDS OF PRACTICE.

§810.61. Introduction to Standards of Practice.

(a) The Council on Sex Offender Treatment (council) is dedicated to the prevention of sexual assault through effective treatment and management of sex offenders. The council identifies treatment providers who have the appropriate training and experience in the treatment of sex offenders, sponsors training seminars and conferences, and disseminates information about sex offender treatment. The council publishes a registry of sex offender treatment providers which contains the names of persons who have satisfactorily completed council requirements for inclusion.

(b) Sexual deviance is a learned or acquired behavioral disorder but may also be influenced by biological factors. Treatment is focused on recognizing, changing and managing deviant behavior and the attitudes that promote it. Sexual deviance is not considered to be a disease that can be cured. The focus of contemporary treatment is on techniques designed to assist sex offenders in maintaining control throughout their lifetime. Therefore, treatment should include simple, practical techniques that can be used during and after formal therapy.

(c) Sex offender evaluation and treatment requires an approach unfamiliar to most mental health professionals. Treatment providers often exercise substantial control over the lives of their clients because of the concern for community

protection. For this and other reasons, standards of practice specific to the treatment of sex offenders are necessary.

(d) This document was developed by the council to delineate appropriate evaluation and treatment procedures and policies. These standards were largely adapted from a publication of the Association for the Treatment of Sexual Abusers (ATSA) entitled, Ethical Standards and Principles for the Management of Sexual Abusers, Revised 1997. They are not intended to supplant the standards of the treatment provider's licensing/certifying board, but are intended to supplement them. These standards delineate professional expectations for the treatment of sex offenders.

§810.62. Council Assertions.

(a) Registrants shall:

- (1) be committed to community protection and safety;
- (2) not discriminate against clients with regard to race, religion, gender preference, or disability;
- (3) treat clients with dignity and respect, regardless of the nature of their crimes or conduct;
- (4) be knowledgeable of legal statutes and scientific data relevant to this area of specialized practice;
- (5) perform professional duties with the highest level of integrity, maintaining confidentiality within the scope of statutory responsibilities;
- (6) insure that the client fully understands the scope and limits of confidentiality in the context of his or her particular situation;
- (7) refrain from using professional relationships to further their personal, religious, political, or economic interest other than accepting customary professional fees;
- (8) not engage in sexual relationships with clients (sex between a mental health services provider and a client is a second degree felony in Texas);
- (9) fully inform clients in advance of fees for services;
- (10) refrain from knowingly providing treatment services to a client who is in treatment with another professional without initial consultation with the current registrant;
- (11) make appropriate referrals when the registrant is not qualified or is otherwise unable to offer services to a client;
- (12) insure that colleagues are qualified by training and experience before making a referral to them;
- (13) when withdrawing services, minimize possible adverse effects on the client and the community by continuing treatment until the client has been admitted elsewhere;
- (14) take into account the legal/civil rights of the clients, including the right to refuse treatment;
- (15) make no claims regarding the efficacy of treatment that exceed what can be reasonable expected and supported by empirical literature;
- (16) avoid drawing conclusions or rendering opinions that exceed the present level of knowledge in the field

or the expertise of the evaluator;

(17) attempt to resolve with the clinician and/or report to the appropriate licensing or regulatory authority unethical, incompetent, and dishonorable treatment or evaluation practices; and

(18) display 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) Registrants assert that:

(1) community safety takes precedence over any conflicting consideration, and ultimately, is in the best interests of the offender and society;

(2) inappropriate or unethical treatment damages the credibility of all treatment and presents an unnecessary risk to the community;

(3) registrants shall have no history of criminal or sexually deviant acts;

(4) criminal investigation, prosecution, and court orders for treatment may be components of effective intervention;

(5) where practical, registrants should actively involve community supervision officers, child protective services workers, and victim therapists in case management;

(6) a voluntary client accepted for treatment should be held to the same standards of compliance as are mandated sex offenders;

(7) it is imprudent to release an untreated sex offender without providing offense-specific evaluation and treatment or specialized supervision;

(8) without external pressure many sex offenders will not follow through in treatment. Internal motivation improves the prognosis, but is not a guarantee of success;

(9) comprehensive assessment of the sex offender must precede treatment and includes issues addressed in §810.63 of this title (relating to Assessment and Evaluation Concerns);

(10) sex offenders require comprehensive, long term, offense-specific treatment. Currently, cognitive-behavioral approaches that utilize sex offender peer groups may be the most effective and best evaluated methods of treatment. Self-help groups, drug intervention, or time limited treatment should be used only as adjuncts to more comprehensive treatment. For some sex offenders, incarceration without treatment may increase the risk of recidivism;

(11) a written individualized treatment plan that identifies the issues, intervention strategies, and goals of treatment shall be prepared for each sex offender. Treatment plans should be reassessed periodically;

(12) the treatment plan may include behavioral contracts which outline specific expectations of the sex offender, his/her family, and the sex offender's support systems. These contracts should include provisions to avert high risk situations. These contracts should be reassessed periodically;

(13) progress, or lack thereof, should be clearly documented in treatment records. Specific achievements, failed assignments and rule violations should be recorded. This information should be provided to the appropriate supervising officer in the justice system;

(14) progress in treatment must be based on specific, measurable objectives, observable changes, and demonstrated ability to apply changes in relevant situations. For most sex offenders, progress requires changes in the sex offender's behavior, attitudes, social and sexual functioning, cognitive processes, and arousal patterns. These changes should demonstrate increased understanding by the offender of his own deviant behavior, sensitization to the effects on a victim, and ability to seek and apply help;

(15) when a sex offender has made the changes required in treatment, there should be a gradual and commensurate decline of intervention, support, and supervision following an offense-specific treatment program. Ongoing support to maintain changes made in treatment is necessary and aftercare and monitoring are desirable;

(16) there will be instances when the registrant should refuse to treat a sex offender because essential ancillary resources do not exist to provide the necessary levels of intervention or safeguards;

(17) the registrant has an ethical obligation to refer the client to a more comprehensive treatment program and/or to the judicial system, when the registrant determines that a sex offender is not making the changes necessary to reduce his/her risk to the community;

(18) failure on the part of clients to abide by their treatment plans and/or contracts should result in referral back to the supervising officer in the justice system;

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

(20) registrants need to immediately notify the appropriate authority when a client drops out of court-ordered treatment;

(21) most sex offenders enter the criminal justice system with varying degrees of denial regarding their behavior. Overcoming denial is a gradual process achieved in treatment. The existence of some degree of denial should not preclude an offender entering treatment, although the degree of denial should be a factor in identifying the most appropriate form and location of treatment;

(22) sex offender treatment is unlikely to be effective unless the sex offender admits his/her behavior. Community based treatment may not be appropriate for sex offenders who continue to demonstrate complete denial after a trial period of treatment;

(23) registrants should not rely exclusively on self report by the sex offender to assess progress or compliance with treatment requirements and/or probation or parole orders. Registrants should rely on multiple sources of information regarding the sex offender's behavior and when possible utilize physiological methods such as polygraph, Phallometric, and

other research based physiological measurements;

(24) physiological measures should not replace other forms of monitoring but may improve accuracy when combined with active surveillance, collateral verifications, and self-report. Phallometric assessment in Texas must be conducted by an order and under the supervision of a physician. Polygraph examinations should only be conducted by licensed examiners that meet the "Recommended Guidelines for the Clinical Polygraph Examinations of Sex Offenders" as developed by the Joint Polygraph Committee on Offender Testing (JPCOT);

(25) polygraph can be effective in encouraging disclosure of prior events and adherence to rules. This procedure should never be the only method used to determine factual information;

(26) Phallometric methods cannot be used to prove an individual did or did not, or will or will not commit a sexual offense. However, they can be useful in identifying sexual preferences and changes in preferences over time;

(27) informed, voluntary consent should always be obtained prior to engaging clients in aversive conditioning;

(28) if Phallometric assessment or aversive therapies are used with persons 15 years of age or younger, consent for such assessment and therapy should be obtained from the juvenile sex offender and written consent for such assessment and therapy should be obtained from the juvenile sex offender's parents, and the procedures should be reviewed by a multi-disciplinary professional or institutional advisory group. This is intended to insure that individuals not intimately involved in the treatment of the patient have input regarding the appropriateness of such methods consistent with the developmental level of the child;

(29) individuals under age thirteen should not undergo Phallometric assessment or aversive therapies except in rare cases which must be approved by a multi-disciplinary advisory group;

(30) in cases of intellectually handicapped sex offenders who are unable to give written consent, an interdisciplinary review and parental written consent are the ways to obtain permission to proceed with treatment;

(31) removal of an intrafamilial sex offender against children from a residence in which children reside (instead of the children) is the preferred option;

(32) treatment referrals should be offered to the non-offending spouse and children in cases where a parent has been removed and to the family where a juvenile sex offender has been removed;

(33) if the sex offender has a history of sexual arousal to or reported fantasies of sexual contact with children, he or she should be restricted from having access to children. Supervised visits may be considered if:

(A) it is determined that sufficient safeguards exist;

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

(C) it does not impede the sex offender's progress

in treatment; and

(D) court mandated conditions do not prohibit such contact;

(34) there is evidence to support family participation in the treatment of sex offender. Where feasible and appropriate, spouses and other family members should be included. Victims or vulnerable children should be excluded until such time as joint therapy is determined to be appropriate;

(35) the registrant should make every effort to collaborate with the victim's therapist in making decisions regarding communication, visits and reunification. Registrants should be supportive of the victim's wishes regarding contact with the offender. Contact should be arranged in a manner that places child/victim safety first. When assessing child safety, both psychological and physical well-being should be considered. The registrant shall insure that custodial parents or guardians of the children have been consulted prior to authorizing contact and that contact is in accordance with Court directives; and

(36) if reunification is deemed appropriate, the process should be closely supervised. There must be provisions for monitoring behavior and reporting rule violations. Victim comfort and safety should be assessed on a continuing basis. The registrant should recognize that supervision during visits with children is critical for those whose crimes are against children, or who have demonstrated the potential to abuse children. Caution should be taken when selecting and preparing visitation supervisors.

#### §810.63. Assessment and Evaluation Concerns.

(a) The evaluation focuses on both the risks and needs of the sex offender, as well as identifying factors from social and sexual history which may contribute to sexual deviance. Evaluations provide the basis for the development of comprehensive treatment plans and should provide recommendations regarding the intensity of intervention, specific treatment protocol needed, amenability to treatment, as well as the identified risk the sex offender presents to the community. There is no known set of personality characteristics that can differentiate the sex offender from the non-sex offender. Psychological profiles cannot be used to prove or disprove an individual's propensity to act in a sexually deviant manner.

(b) The following standards were largely adapted from a publication of the Association for the Treatment of Sexual Abusers entitled, Ethical Standards and Principles for the Management of Sexual Abusers, Revised 1997. Evaluations shall precede treatment. In preparing evaluations of sex offenders, registrants are expected to:

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

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

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

- (4) be aware of the client's legal status;
- (5) be mindful of the limitations of client's self-report and make all possible efforts to verify the information provided by the client;
- (6) use evaluative procedures and techniques sufficient to respond to the presenting issues, as well as to provide appropriate substantiation for the resulting conclusions and recommendations;
- (7) acknowledge if an evaluation consisted of only a review of data, with no client contact, and clarify the impact that limited information has on the reliability and validity of the resulting report;
- (8) provide informed consent, releases and/or limit of confidentiality documents in written form and employ verbal explanations for non-readers;
- (9) if the client is a juvenile or incapable of giving written consent for any other reason, obtain written consent from the appropriate guardian. Assent from the individual being evaluated should be obtained whenever possible;
- (10) thoroughly review written documentation and collateral interviews. This involves gathering and reviewing information from all available and relevant sources, including:
  - (A) criminal investigation records;
  - (B) child protection service investigations;
  - (C) previous evaluations and treatment progress reports;
  - (D) mental health records and assessments;
  - (E) medical records;
  - (F) correctional system reports;
  - (G) probations/parole reports;
  - (H) offense statements from sex offender; and
  - (I) offense statements from victim;
- (11) whenever possible, interview the client's significant other and/or family of origin;
- (12) cautiously interpret evaluation conducted without collateral information;
- (13) list and acknowledge in a written report evaluation procedure summaries, conclusions, recommendations, and all collateral reports and interviews;
- (14) re-interviews of victims should not be used for the purpose of gathering information during the sex offender's evaluation; and
- (15) keep the sex offender and victim interview and evaluation processes separate. If that is not possible, the evaluator must be extremely vigilant to avoid bias.
- (c) The evaluation procedures may include:
  - (1) clinical review;
  - (2) paper/pencil testing;
  - (3) intellectual assessment; and
  - (4) physiological assessments.
- (d) Information gathered in the evaluation process includes, but is not limited to:
  - (1) intellectual and cognitive functioning;
  - (2) mental status;
  - (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;
- (7) history of victimization; physical, emotional and/or sexual;
- (8) education and occupation history;
- (9) criminal history, both sexual and non-sexual;
- (10) history of violence and aggression including use of weapons;
- (11) interpersonal relationships, both past and current;
- (12) cognitive distortions;
- (13) social competence;
- (14) impulse control;
- (15) substance abuse;
- (16) denial, minimization and inability to accept responsibility;
- (17) sexual behavior, 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
- (18) sexually deviant 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 sexual arousal patterns.
- (e) Registrants will subscribe to the following tenets regarding client assessment.
  - (1) The comprehensive assessment of the client's sexually deviant behavior is specific to the evaluation of the sex offender.
  - (2) It is important to be sensitive to the individual's cognitive functioning, including reading and writing capabilities, prior to arranging the battery of testing instruments.
  - (3) If a client cannot read at the level necessary to comprehend the test questions, arrangements for using a standardized approved auditory (taped or read) version of the test instrument should be made, to the extent such versions are available.
  - (4) The clinical interview must incorporate sufficient discussion necessary to augment, clarify and explore the information obtained from the review of collateral materials (and interviews), as well as the other components of the evaluation (testing results, etc.).
  - (5) It is important to note the degree of similarity or disparity between the abuser and the victim's statements.
  - (6) The client's explanations for false allegations should be documented.
  - (7) Assessment of treatment needs should identify

strengths and weaknesses in the individual's sociosexual functioning for the purpose of directing treatment efforts to the appropriate areas.

(8) Both community safety and the degree to which a sex offender is capable and willing to manage risk should be considered when generating recommendations.

(9) A thorough evaluation should be completed prior to a sex offender being accepted into a community based treatment program.

(A) If a significant amount of time has lapsed between the completions of the evaluation and when the individual applies for acceptance into a treatment program, an evaluation update is required.

(B) The intent of the update should not be to duplicate the original evaluation, but to gather current data upon which the original treatment plan can either be confirmed or amended.

(10) A sex offender treatment provider should never recommend an inadequate treatment program or level of risk management because existing resources limit or preclude adequate or appropriate services.

#### §810.64. Issues To Be Addressed In Treatment.

(a) During the decade preceding 1995, the field of sex offender evaluation and treatment has undergone many changes. Research and clinical reports have begun to demonstrate that a number of treatment methods may be effective in reducing some forms of sexual deviance.

(b) Although existing data are inadequate to determine which type of treatment is the most effective for which type of sex offender, the following treatment methods generally are accepted as those most important to the effective treatment of sexual deviancy.

(1) Arousal Control. Control of deviant arousal, fantasies, and urges is a priority with most sex offenders. Fantasy and sexual arousal to fantasy are precursors to deviant sexual behavior. It should be assumed that most offenders have gained sexual pleasure from their specific form of deviance. Arousal control methods do not eliminate but only help control arousal. It is therefore necessary that clients learn to apply these techniques in everyday situations, without reliance on a special apparatus. Arousal control may require periodic "booster" sessions for the remainder of the client's life. Effective arousal control must also include methods to control spontaneous deviant fantasies and to minimize contact with stimulating objects or persons. Arousal control should proceed from the most effective methods for reducing arousal to less effective methods. To document changes in arousal control, physiological measurement is essential. Multiple measures over time are required to determine change reliability.

(2) Cognitive Therapy. Cognitive distortions are thoughts and attitudes that allow offenders to justify, rationalize, and minimize the impact of their deviant behavior. Cognitive distortions allow the offender to overcome prohibitions and progress from fantasy to behavior. These distorted thoughts provide the sex offender with an excuse to

engage in deviant sexual behavior, and serve to reduce guilt and responsibility. Cognitive therapy strives to identify, assess, and modify cognition's that promote sexual deviance. Cognitive therapy is considered a vital component of treatment.

(3) Relapse Prevention. Current knowledge of deviant sexual behavior suggests that there is a series of behaviors, emotions, and cognition's that is identifiable and which precede deviant sexual behavior in a predictable manner. The ability to accurately identify these maladaptive behaviors is a primary goal for every offender in treatment. Autobiographies, offense reports, interviews and cognitive-behavioral chains are used to identify antecedents to offending. The ability to intervene can be enhanced by training primary partners and other support persons to recognize maladaptive behaviors and to encourage application of proper coping behaviors.

(4) Victim Empathy. Although there is no clear evidence to suggest that all sex offenders can gain true empathy for victims of abuse, a universal goal of treatment is to learn to understand and value others. Highlighting the consequences of victimization helps sensitize the offender to the harm he or she has done. The use of analogous experiences has been shown to be effective especially with adolescents.

(5) Biomedical Approaches. Intervention with psychopharmacological agents is useful in select cases. Antiandrogens such as depo-provera act by reducing testosterone and may be helpful in controlling arousal and libido when these factors are undermining progress in therapy or increasing the risk of re-offending before significant progress can be made in the cognitive aspects of therapy. Antidepressants and medications targeting obsessive compulsive symptoms are also useful in some individuals where those symptoms play a role in the overall psychodynamic picture. Likely candidates are those who are predatory, violent, have had prior treatment failures, and report an inability to control deviant sexual arousal. Use of these agents should never be the only method of treatment.

(6) Increasing Social Competence. Sex offenders often have deficits in basic social and interpersonal skills. They may lack the ability to develop and sustain reciprocal friendships. Many sex offenders are poor problem-solvers, lack assertiveness, and do not adequately manage anger or stress. One goal of treatment is to improve the offender's ability to deal effectively with social situations and develop meaningful relationships with others.

(7) Improving Primary Relationships. Failure to develop and maintain a reciprocal, living sexual relationship with an adult partner may lead one to seek out alternative sexual outlets. Identifying specific sexual dysfunctions, sex therapy, and training in dating skills and erotic techniques may be necessary to develop a functional lifestyle. Failure to involve the current partners in therapy often leads to the same stresses and failure in the relationship that precipitated the sexual deviancy.

(8) Couples/Family Therapy. To facilitate transition of the sex offender's partner into therapy a variety of treatment modalities are recommended. Individual therapy, non-

offending spouses groups, and/or parents of victims groups prepare the partner for the issues and methods involved in sex offender treatment. Marital therapy or couples group therapy focused on sexual offending is essential in cases where a sex offender is to return home. If an offender is to eventually to live in a home where victims or children reside, a predetermined integration sequence should be followed which addresses role and boundary issues. This should include close supervision and a variety of safeguards for the protection of children.

(9) Support Systems. Involvement of close friends and family in therapy provides the offender with a milieu in which support is available. Part of the transition to follow-up is a reduction in group and individual therapy. To compensate for this loss of support and surveillance, the support system should assist the offender in avoiding and coping with antecedents to sexual deviance. The support system should include individuals from the offender's daily life (i.e., family, friends, co-workers, church members, and extended family).

(10) Comorbid Diagnosis. In some sex offenders there are sufficient signs and symptoms to merit an additional diagnosis by DSM IV criteria. These diagnoses can be anywhere in the entire spectrum of psychiatric disease. The most common are alcohol abuse, substance abuse and affective disorders. Treating an alcohol or substance problem should not be assumed to make sex offender treatment unnecessary. Occasionally, the delusions and hallucinations of schizophrenia will be associated with the individual committing sexual offenses. The comorbid diagnoses should be treated with the appropriate therapies concomitantly with the treatment for sex offending behavior except in the case of schizophrenia where the antipsychotic therapy would obviously take precedence.

(11) Follow-up Treatment. A therapeutic regime that includes follow-up significantly increases the likelihood that gains made during treatment will be maintained. In order for new habits and skills to be reinforced and to monitor compliance with treatment contracts, follow-up treatment should involve periodic "booster" sessions to reinforce and assess maintenance of positive gains made during treatment. This can be facilitated by involving the support group, and using polygraph and Phallometric assessment. Input from support group members, polygraph examinations, and Phallometric assessments may serve to deter future offenses or alert therapists to problems.

#### Subchapter D. CODE OF PROFESSIONAL ETHICS.

§810.91 Code Of Professional Ethics. Registrants are trained in dealing with the assessment and treatment of sex offenders. These registrants constitute a professional discipline which has a membership committed to establishing and maintaining the highest level of professional standards related to the assessment and treatment of sex offenders. As such, they are conscious of their special skills and aware of their professional boundaries. They perform their professional duties with the highest level of integrity and appropriate confidentiality, within the scope of

their statutory responsibilities. They will not hesitate to seek assistance from other professional disciplines when circumstances dictate. They are committed to protect the public against and will not hesitate to expose unethical, incompetent, or dishonorable practices. In order to maintain the highest standard of service and consumer protection, they commit themselves to the following principles designed to earn the greatest level of public confidence.

#### §810.92 Code Of Ethics.

##### (a) Professional Conduct.

(1) Each registrant will provide professional service to anyone, regardless of race, religion, sex, political affiliation, social or economic status, or choice of life style. A registrant will not allow personal feelings related to a client's alleged or actual crimes or behavior to interfere with professional judgment and objectivity. When a registrant cannot offer service to a client for any reason, he or she will make a proper referral. Registrants are encouraged to devote a portion of their time to work for which there is little or no financial return.

(2) Each registrant will refrain from using his or her professional relationship, related to the assessment or treatment of a client, to further personal, religious, political or economic interests, other than customary professional fees.

(3) The proper conduct of each registrant is a personal matter to the same degree as it is with any other individual, except when such conduct compromises the fulfillment of professional responsibilities or reduces the public trust in this specialty area. Consequently, registrants are sensitive to predominant community standards and the potential impact that either conformity to, or deviation from these standards can have on the perception of their own performance, as well as that of their colleagues.

(4) Each registrant has an obligation to engage in continuing education and professional growth including active participation in meetings and affairs or relevant professional affiliations.

(5) Each registrant will refrain from diagnosing, treating or advising on problems outside the recognized boundaries of his/her competence.

##### (b) Client Relationships.

(1) Each registrant, offers dignified and reasonable support to a client, and does not exaggerate the efficacy of his or her service.

(2) When engaged in private practice, each registrant recognizes the importance pertaining to financial matters with clientele. Arrangements for payments are to be settled at the beginning of an assessment or a therapeutic relationship.

(3) Each registrant shall avoid dual relationships with clientele. These may impair professional judgment or pose a risk of exploiting the client. Examples of dual relationships include, but are not limited to, the following: treatment of family members, close friends, employees, supervisors, or supervises.

(4) Sexual harassment or intimacy with clients is unethical. Sexual behavior between a registrant and a client

constitutes a felony offense in Texas.

(5) A registrant shall not withdraw services to clients in a precipitous manner. Each member shall give careful consideration to all factors in the situation and take care to minimize possible adverse effects on the client.

(6) Each registrant who anticipates termination or disruption of service to clients shall notify the clients promptly and provide for transfer, referral, or continuation of service in keeping with the client's needs and preferences.

(7) Each registrant who serves the clients of a colleague during a temporary absence or emergency will serve those clients with the same consideration of that afforded any client.

(8) In their professional role, registrants will avoid any action which will violate or diminish the legal and civil rights of clients or others who may be affected by their actions.

(c) Confidentiality.

(1) Registrants will keep records on each client, storing them in such a way as to ensure their safety and confidentiality in accordance with the highest professional and legal standards.

(2) Each registrant is responsible for informing clients of the limits of confidentiality. Clients should be informed of any circumstances which may trigger an exception to the agreed upon confidentiality.

(3) Registrants in criminal justice settings, or elsewhere, should inform all parties with whom they are working of the level of confidentiality which applies. They should clarify any circumstances which would constitute exceptions to confidentiality, in advance of the service being rendered. Each registrant should make clear to the client any "conflict of interests" or dual-client relationships which affect his/her current relationship with a client.

(4) Written permission and informed consent shall be granted by the client before any data may be divulged to other parties.

(5) When responding to an inquiry for information and when a written release by the client is obtained, written and oral reports should present data germane to the purpose of the inquiry. Every effort should be made to avoid undue invasion of privacy for the client or other related person.

(6) As noted above, information is not communicated to others without the written consent of the client unless the following circumstances occur.

(A) There exists a clear and immediate danger to the person from the client.

(B) There is an obligation to comply with specific statutes requiring reports of suspected abuse to authorities. Each registrant is responsible for becoming fully aware of all statutes which pertain to the conduct of his or her professional practice.

(d) Assessments.

(1) Registrants make every effort possible to promote the client's non-offending behavior while at the same time, acting in the best interest of the client, so long as others are not placed at identifiable risk. They guard against the misuse of

assessment data. They respect their client's rights to know the results, the interpretations made, and the basis for the conclusions and recommendations drawn from such assessments. They endeavor to ensure that the assessment and reports they provide are used appropriately by others as well. Reports are written in such a way to communicate clearly to the recipient of the report.

(2) Unless the client agrees to an exception in advance, each registrant respects the right of the client to have a complete explanation, in language which the client is able to understand, of the nature and purpose of the methodologies, and any foreseeable (side) effects of the assessment.

(3) Each registrant will obtain voluntary informed consent, in written form, from a client prior to conducting a physiological assessment or engaging in treatment. In cases where a question exists regarding the appropriateness of administering a test to a particular client, the registrant shall seek expert guidance from a competent medical and/or psychological authority prior to testing.

(4) In court-ordered evaluations, the client should be informed of his rights as a client, including his rights of confidentiality.

(5) The responsible use of assessment measures is of paramount concern and a serious responsibility of each registrant. Assessments regarding a person's degree of sexual dangerousness, suitability for treatment, or other forensic referral questions shall not be determined solely on the basis of a Phallometric assessment. Rather, such data must 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.

(6) An assessment should not be used to confirm or deny whether an event or crime has taken place.

(7) In reporting assessment results, registrants indicate any reservations that might exist regarding validity or reliability because of the circumstances of the assessment or the absence of comparative norms for the person being tested. Each registrant endeavors to ensure that assessment results and interpretations are not misunderstood or misused by others. Proper qualifications will be made with regard to prediction and "generalizability of data" issues, in order to not mislead the consumer of the report.

(8) Since it is not within the professional competence of registrants to offer conclusions on matters of law, unless they are trained to do so, they should resist pressure to offer such conclusions (e.g., while it would be appropriate to address an issue regarding the probability of a client committing certain criminal acts within a certain period of time, it would be inappropriate to state that "an individual is too dangerous to be released").

(9) Each registrant should be very cautious in offering predictions of criminal behavior for use in imprisoning or releasing individuals. If a registrant decided that it is appropriate, on the basis of a thorough evaluation in a given case, to offer a prediction of criminal behavior, he or she should specify clearly:

- (A) the acts being predicted;
- (B) the estimated probability that these acts will occur during a given period of time; and
- (C) the facts and data on which these predictive judgments are based.

(10) Each registrant should be thoroughly familiar with the assessment or treatment procedures and data used by another registrant before providing any public comment or testimony pertaining to the validity, reliability, or accuracy of such information.

(11) Each registrant will safeguard sexual arousal assessment testing and treatment materials. Each registrant will recognize the sensitivity of this material and use it only for the purpose for which it is intended in a controlled Phallometric laboratory assessment. Registrants will not make such materials available to persons who lack proper training and credentials, or who would misinterpret or improperly use such stimulus materials.

(e) Professional Relationships.

(1) Each registrant will refrain from knowingly offering treatment services to a client who is in treatment with another professional without initially consulting with the professionals involved.

(2) Each registrant will act with proper regard for the needs, special competencies, and perspectives of not only colleagues who treat sex offenders but other professionals as well.

(3) Each registrant is encouraged to affiliate with professional groups, clinics, or agencies operating in the assessment and treatment of sex offenders. Similarly, interdisciplinary contact and cooperation is encouraged.

(f) Research and Publications.

(1) Each registrant is obligated to protect the welfare of his or her research subjects. Provisions of the "human subjects experimental policy" shall prevail as specified by the United States Department of Health, Education and Welfare guidelines.

(2) Each registrant will carefully evaluate the ethical implications of possible research and has full responsibility to ensure that ethical practices are enforced in conducting such research.

(3) The practice of informed consent person prevails. The research participant shall have full freedom to decline to participate in or withdraw from the research 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 to the greatest degree possible.

(5) Publication credit is 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 will be governed by the following standards on public information and advertising.

(1) General Principles: The practice of assessment

and treatment of the sex offender exists for the public welfare. Therefore, it is appropriate for registrants to inform the public of the availability of services. However, much needs to be done to educate the public as to the services available from qualified persons who engage in the assessment and treatment of sex offenders. Therefore, registrants have a responsibility to the public to engage in appropriate informational activities and avoid misrepresentation or misleading statements in keeping with the following general principles and specific regulations: selection of a registrant by a prospective client should be made on an informed basis. Advice and recommendations of third parties, such as community corrections officers, attorneys, physicians, other professionals, relatives or friends, as well as responses to restrained publicity, may be helpful. Advertisements and public communications, whether in directories, announcement cards, newspapers or on radio or television, should be formulated to convey accurate information which is necessary to make an appropriate selection. Self-praising and testimonials should be avoided. Information that may be helpful in some situations would include the following:

(A) office information such as name, including a group name and names of professional associates, address, telephone number, credit card acceptability, languages spoken and written, and office hours;

(B) only earned degrees from an accredited college or university, state licensure and/or other certification, professional certification or affiliation;

(C) description of practice, including the statement that a practice is limited to the assessment or treatment of sex offenders (if appropriate); and

(D) professional fee information.

(2) The proper motivation for community publicity by members who are engaged in the assessment and treatment of sex offenders lies in the need to inform the public of the availability of competent professionals. The public benefit derived from advertising depends upon the usefulness and accuracy of the information provided to the community to which it is directed.

(3) The regulation of public statements by registrants is rooted in the public interest. Public statements through which a registrant seeks business by use of extravagant or brash statements or appeals to fears could mislead or harm the lay person. Furthermore, public communications that would produce unrealistic expectations in particular cases and would bring about a lack of confidence in the profession, would be harmful to the community. The therapist-client relationship is personal and unique and should not be established as the result of pressures, deception or exploitation of the vulnerability of clients.

(4) The name under which a registrant conducts his or her practice may be a factor in the selection process. Use of a name or credentials which could mislead referral sources or lay persons is improper. Likewise, a registrant should not hold oneself out as being a partner or associate of any agency or firm if he is, in fact, not acting in that capacity (e.g., a person

engaged in private practice who is also employed at a state hospital should make it clear to a prospective client in private practice that he is not acting on behalf of a state hospital).

(5) In order to avoid the possibility of misleading persons with whom he or she deals, a registrant should be scrupulous in the representation of his or her professional background, training and status. Each registrant must indicate, if it is accurate, any limitations in his or her practice (e.g., an ASOTP should specify that he/she must operate under the supervision of a RSOTP).

(6) Registrants shall not represent their affiliation with any organization or agency in a manner which falsely implies sponsorship or certification by that organization.

(7) Registrants shall not knowingly make a representation about his or her 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 registrant, or services.

#### **Subchapters E through J effective January 1, 2000**

#### Title 22. Examining Boards

#### Part XXXVI CSOT

#### Chapter 810. Council on Sex Offender Treatment

#### Subchapter E. General Provisions.

#### §810.121. Introduction.

(a) Purpose. The provisions 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.

§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, Title 11, Chapter 841.

(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 for a person committed under the Act, §841.081.

(4) Board --The Texas Board of Health.

(5) Civil commitment --The civil commitment of a person adjudged to be a sexually violent predator to a program involving outpatient treatment and supervision.

(6) Civil commitment case manager --A person employed by or under contract with the council to perform duties related to the outpatient treatment and supervision of a person civilly committed as a sexually violent predator.

(7) Civil commitment treatment provider --A person or persons employed by or under contract with the council to conduct assessments, provide treatment, conduct treatment planning and to assist the Civil Commitment Case Manager in supervising the sexually violent predator.

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

(9) Department --The Texas Department of Health.

(10) Multidisciplinary Team --Has the meaning assigned by the Act, §841.022.

(11) Penile Plethysmograph -- The physiological measurement of sexual arousal.

(12) Polygraph examiner --A licensed polygrapher who adheres to the Joint Polygraph Committee on Offender Testing (JPCOT) for polygraphing sex offenders.

(13) Predatory act --An act that is committed for the purpose of victimization and that is directed toward:

(A) a stranger;

(B) a person of casual acquaintance with whom no substantial relationship exists; or

(C) a person with whom a relationship has been established or promoted for the purpose of victimization.

(14) Repeat sexual offender --Has the meaning assigned by the Act, §841.003.

(15) Sexually violent offense --Means:

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

(B) an offense under the Penal Code §30.04(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 attempt, conspiracy, or solicitation, as defined by the Penal Code, Chapter 15, to commit an offense listed in subparagraphs (A), (B) or (C) of this paragraph;

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

(F) 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 subparagraphs (A), (B), (C), or (D) of this paragraph.

(16) Sexually violent predator (SVP) --Has the meaning assigned by the Act, §841.003.

(17) Supervised housing --Community residential facilities, or halfway houses, located in the State of Texas and under contract with the Texas Department of Criminal Justice, or other similar residential facilities as warranted which will house persons adjudged to be sexually violent predators.

(18) Supervision contract --A contract wherein a person agrees to participate in an Outpatient Sexually Violent Predator Treatment Program (OSVPTP) and to abide by all of its terms and conditions.

(19) Tracking services --An electronic monitoring service, global positioning satellite service, or other appropriate technological service that is designed to track a person's location.

#### Subchapter F. Civil Commitment.

§810.151. Administration of the Act. The Council on Sex Offender Treatment (council) is responsible for providing the appropriate and necessary treatment and supervision of a sexually violent predator (SVP). Pursuant to the Act, the

council shall develop and implement guidelines and policies involving standards of care and case management by contracting for the services of case managers, treatment providers, commitment review experts, tracking service providers, biennial examination experts, and supervised housing providers. The council shall appoint one member of the council and one alternate, to serve as a member of the Multidisciplinary Team (team) as defined in the Act, §841.022. The council member who serves 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.

§810.152. Civil Commitment of Sexually Violent Predators. In the event that a judge or jury determines that a person is a sexually violent predator (SVP), the person shall be committed by the judge to the Outpatient Sexually Violent Predator Treatment Program (OSVPTP) in accordance with a treatment and supervision plan approved by the council. Upon making a determination that a person is a SVP, the committing judge shall provide the council and the person with a copy of the civil commitment requirements for the person committed. The OSVPTP must begin on the person's release from a secure correctional facility or discharge from a state hospital and must continue 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. The OSVPTP shall be coordinated by a case manager who has been approved by the council. The council shall provide the case manager with a copy of the civil commitment requirements imposed upon the person by the committing judge.

§810.153. Outpatient Treatment and Supervision Program. The council shall contract for the provision of an OSVPTP which utilizes intensive supervision and cognitive behavioral sex offender treatment to attain the goal of no more victims. The OSVPTP is composed of the following elements: housing, orientation, evaluation, tracking services, polygraph services, medication, penile plethysmograph, supervision and treatment.

(1) Housing. The council shall provide for any necessary supervised housing, including but not limited to, existing community residential facilities, or halfway houses currently under contract with the Texas Department of Criminal Justice (TDCJ) and private entities, or other similar residential facilities as warranted. The supervised housing shall be approved by the council and shall be in locations around the State where the Department of Public Safety (DPS) maintains sufficient personnel who are properly trained in utilizing all forms of tracking services. Upon being admitted to supervised housing, a SVP shall be placed on an intensive electronic monitoring system and shall not be allowed to leave the supervised housing until he has completed the Orientation Program and has successfully begun work on Stage One of the treatment plan.

(2) Orientation. A person civilly committed by a judge to supervised housing approved by the council, shall receive an orientation session from his assigned case manager involving the OSVPTP. The council shall establish employment guidelines and policies for the hiring of a case manager who will be responsible for coordinating the OSVPTP for the person civilly committed, and for informing the person of his rights, obligations, and responsibilities under the OSVPTP. A person civilly committed to the OSVPTP must sign all forms, releases and consent documents approved by the council, including but not limited to, the Supervision Contract (contract) which relate to said OSVPTP, and the person must agree to strictly adhere to the terms and conditions of said Contract and other documents as required by the Court. A person who signs the contract and adheres to its terms and conditions, is allowed to begin the OSVPTP. If the person fails to sign the documents, he is not permitted to begin the OSVPTP and will be subject to all legal sanctions available under the Act.

(3) Evaluation. The initial stage of the OSVPTP shall begin with a formal assessment of the SVP. The initial assessment shall involve two components. First, the case manager shall review and validate the formal risk assessment. Second, the treatment provider shall conduct an assessment for the purpose of identifying individual needs which must be addressed during the OSVPTP. The individual needs as identified by the treatment provider shall be included in the person's individual treatment plan.

(4) Tracking Services. The council shall enter into an Interagency Agreement with the DPS which will provide the technology and expertise to track sexually violent predators during their commitment to the OSVPTP. The primary focus of intensive tracking services is to ensure community safety and to teach the person civilly committed the importance of adhering to a schedule and to the limitations imposed under the OSVPTP. Such services shall include but not be limited to electronic monitoring, global position tracking and surveillance. All SVP's shall begin an intensive monitoring system once a judge civilly commits the person for outpatient treatment and supervision. The minimum length of time that a person shall be on the intensive tracking schedule is one year. A person may receive a less intensive tracking schedule if the case manager and the treatment provider determine that such action is warranted.

(5) Polygraph Services. 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 shall include, but not be limited to, the monitoring of the person with a polygraph. The treatment plan shall consist of clinical polygraph exams specific to sex offenders, including but not limited to disclosure exams and maintenance/monitoring exams. The council shall only approve treatment plans which utilize licensed polygraphers

who agree to adhere to the Joint Polygraph Committee guidelines for polygraphing sex offenders.

(6) Supervision. The council shall establish employment guidelines and policies for the hiring of a case manager who will be responsible for the supervision of the person civilly committed, and for the development of a supervision plan for that person. The case manager shall be responsible for:

(A) conducting office supervision and field visits to monitor the SVP;

(B) serving as a liaison with the sex offender therapist, and electronic tracking services;

(C) the polygrapher;

(D) all other professionals providing services to the SVP; and

(E) conducting on-going risk assessments and adjust the person's supervision according to the risk assessment.

(7) Treatment. The council shall approve and contract for the provision of a treatment plan which is based on a cognitive behavioral model with the focus of the treatment being holistic. The OSVPTP shall include but not be limited to sex offender specific group and individual therapy; social skills training, antiandrogenic and/or the equivalent chemotherapy, and if deemed warranted by the treatment provider, substance abuse counseling or traditional mental health treatment. The treatment plan shall be composed of standard tasks which all persons must complete. In addition, individual goals shall be established based upon evaluation data. A treatment plan may include the monitoring of the person with a polygraph or plethysmograph. The council shall establish employment guidelines and policies for the hiring of treatment providers who will be responsible for developing and implementing approved by the council. All treatment plans and guidelines for standards of care are subject to the approval of the council prior to implementation.

#### Subchapter G. Civil Commitment Case Manager and Treatment Provider Duties and Responsibilities.

§810.181. Purpose. The Council on Sex Offender Treatment is responsible for providing appropriate and necessary treatment and supervision through a case management system which requires the contracting for the services of case managers and treatment providers.

§810.182. Civil Commitment Case Manager. The council shall approve and contract for the services of a person to perform duties related to outpatient treatment and supervision of a person civilly committed to the Outpatient Sexually Violent Predator Treatment Program (OSVPTP). The council

shall establish employment guidelines and policies setting forth duties and responsibilities, minimum qualifications, knowledge, skills, and abilities required of a person serving in such capacity. The case manager shall report directly to the council through its Executive Director; provide supervision to the SVP; ensure community safety by monitoring the SVP; communicate with law enforcement, treatment providers, and the judge having jurisdiction over the person's commitment; coordinate outpatient treatment for the SVP; conduct periodic assessments to determine the success of outpatient treatment and supervision; train supervised housing staff; provide periodic reports to the council through its Executive Director and to the judge having jurisdiction over the person's commitment; and make recommendations to the judge having jurisdiction over the person's commitment as to whether or not to allow the committed person to change residence or to leave the state, or any other appropriate matters relating to the person's civil commitment.

§810.183. Civil Commitment Treatment Provider. The council shall approve and contract for the services of a person or persons to perform duties related to the outpatient treatment of a person civilly committed to the OSVPTP, and shall establish assessment and treatment guidelines for the Civil Commitment Treatment Providers to follow. The council shall establish employment guidelines and policies setting forth duties and responsibilities, minimum qualifications, knowledge, skills, and abilities required of a person or persons serving in such capacity. A treatment provider shall report directly to the council through its Executive Director regarding the treatment and supervision of a person committed to the OSVPTP; shall conduct assessments; provide treatment and conduct treatment planning; assist the case manager in supervising the SVP; follow assessment and treatment guidelines and policies as established by the council; conduct evaluations and on-going risk assessments; recommend increases or decreases in supervision and freedom for the SVP based upon evaluations and observations; conduct group and individual counseling; conduct treatment planning and submit incident reports to the case manager; liaison with the case manager and other professionals providing services to the SVP; document all services provided to the SVP; and provide status reports to the case manager regarding the person's compliance with the treatment and supervision requirements of the OSVPTP.

#### Subchapter H. Civil Commitment Review.

##### §810.211. Biennial Examination.

(a) A person who is civilly committed under the Act, §841.081, shall receive a biennial examination conducted by an expert. The council shall approve and contract for the services of an expert who will conduct a [an] biennial examination of the person civilly committed as a sexually violent predator. The expert shall not be the same expert who conducted the

initial examination of the person for civil commitment purposes. The expert shall produce a report which shall include the following:

- (1) a background summary of the client's social history;
- (2) a treatment or supervision history and a description of the client's history in an outpatient program;
- (3) a history of assessments utilized;
- (4) a description of client's mental status based upon clinical observations;
- (5) a description of client's performance on psychological tests;
- (6) the examiners' opinion about the client based on the examination;
- (7) the examiner's recommendation regarding the client's need for civil commitment; and
- (8) substance abuse history, anger and suicide history, client's version and official version of the instant offense, client's level of denial of the instant offense, and denial of deviant arousal or intent.

(b) The report shall also include a consideration of whether to modify a requirement imposed on the person under the Act, and whether to release the person from all of the requirements imposed on the person under the Act. The case manager shall provide a report of the biennial examination to the judge having jurisdiction over the person's commitment, and to the council through its Executive Director. The council shall establish employment guidelines and policies setting forth duties and responsibilities, minimum qualifications, knowledge, skills, and the abilities of a person serving as a biennial examination expert. The expert shall not be the same expert who conducted the initial examination of the person for civil commitment purposes.

#### Subchapter I. Petition for Release.

§810.241. Authorized Petition for Release. In the event that 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. Prior to authorizing the person to petition the court for release, the case manager shall notify the council through its Executive Director, and to the Texas Department of Criminal Justice and to the Texas Department of Mental Health and Mental Retardation of the case manager's determination, and a copy of the committed person's petition

in the event that a petition is filed.

§810.242. Unauthorized Petition for Release. Upon a person's commitment to the OSVPTP and on an annual basis thereafter, the case manager shall provide the committed person with written notice of the committed person's right to file a petition for release which has not been authorized by the case manager. The case manager shall provide a copy of the written notice to the council through its Executive Director and to the Texas Department of Criminal Justice and to the Texas Department of Mental Health and Mental Retardation, and a copy of the committed person's petition for release in the event that a petition is filed.

#### Subchapter J. Miscellaneous Provisions.

§810.271. Release and Exchange of Information. In order to protect the public and to facilitate a determination of whether a person is a sexually violent predator, the council shall release information relating to the person to those entities responsible for making determinations under the Act. The council shall provide the case manager with relevant information relating to the person in order to ensure public safety, and to enable the provision of supervision and treatment to a person who is a SVP. Information relating to the supervision, treatment, criminal history, or physical or mental health of the person may be released as deemed appropriate by the council. The person's consent is not required for the release or exchange of information under the Act.

§810.272. Immunity. Pursuant to the Act, §841.147, employees of the council are immune from liability for good faith conduct under the Act. Employees of the council are those persons, including but not limited to, members of the council, members of the Council's Advisory Committee, the council's staff, and employees of the Texas Department of Health and its Office of General Counsel. Persons contracting, volunteering or who are appointed to perform services under the Act, are immune from liability for good faith conduct under the Act.