

OCCUPATIONS CODE

TITLE 3. HEALTH PROFESSIONS

SUBTITLE A. PROVISIONS APPLYING TO HEALTH PROFESSIONS GENERALLY

CHAPTER 110. COUNCIL ON SEX OFFENDER TREATMENT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 110.001. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 5.318(1), eff. April 2, 2015.

(2) "Council" means the Council on Sex Offender Treatment.

(3) "Department" means the Department of State Health Services.

(3-a) "Executive director" means the executive director of the council.

(4) Repealed by Acts 2005, 79th Leg., Ch. 1089, Sec. 31(1), eff. September 1, 2005.

(5) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1219, Sec. 11, eff. September 1, 2007.

(6) "Sex offender" means a person who:

(A) is convicted of committing or adjudicated to have committed a sex crime under state or federal law;

(B) is awarded deferred adjudication for a sex crime under state or federal law; or

(C) is convicted of, adjudicated to have committed, or awarded deferred adjudication for an offense that is based on sexually motivated conduct.

(7) "Sex offender treatment provider" means a person, licensed by the council and recognized based on training and experience to provide assessment and treatment to adult sex offenders or juveniles with sexual behavioral problems who have been convicted, adjudicated, awarded deferred adjudication, or referred by a state agency or a court, and licensed in this state to practice as a physician, psychiatrist, psychologist, psychological associate, provisionally licensed psychologist, licensed professional counselor, licensed professional counselor intern,

licensed marriage and family therapist, licensed marriage and family associate, licensed clinical social worker, licensed master social worker under a clinical supervision plan approved by the Texas Behavioral Health Executive Council, or advanced practice nurse recognized as a psychiatric clinical nurse specialist or psychiatric mental health nurse practitioner, who provides mental health or medical services for rehabilitation of sex offenders.

(8) "Sexually motivated conduct" has the meaning assigned by Section 841.002, Health and Safety Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 3, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 31(1), eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1219 (H.B. 2034), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1219 (H.B. 2034), Sec. 11, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.001, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.318(1), eff. April 2, 2015.

Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 3.008, eff. September 1, 2019.

Sec. 110.002. APPLICATION OF CHAPTER. (a) This chapter does not apply to a person licensed to practice in this state who provides adjunct therapy.

(b) This chapter does not apply to the prescribing of a drug, remedy, or clinical supply by a physician licensed under Subtitle B.

Added by Acts 2007, 80th Leg., R.S., Ch. 1219 (H.B. 2034), Sec. 2, eff. September 1, 2007.

SUBCHAPTER B. COUNCIL ON SEX OFFENDER TREATMENT

Sec. 110.051. COUNCIL; MEMBERSHIP. (a) The council is within the department.

(b) The council consists of seven part-time members, appointed by the governor with the advice and consent of the senate as follows:

(1) three representatives of the public; and

(2) four members each of whom meets the requirements for a license as a sex offender treatment provider under this chapter.

(c) Appointments to the council shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 4, eff. September 1, 2005.

Sec. 110.052. PUBLIC MEMBERSHIP ELIGIBILITY. A person is not eligible for appointment as a public member if:

(1) the person meets the requirements for a license as a sex offender treatment provider under this chapter; or

(2) the person or the person's spouse:

(A) is registered, certified, or licensed by an occupational regulatory agency in the field of sex offender treatment;

(B) is employed by or participates in the management of a business entity or other organization regulated by the council or receiving funds from the council;

(C) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the council or receiving funds from the council; or

(D) uses or receives a substantial amount of tangible goods, services, or funds from the council, other than compensation or reimbursement authorized by law for council

membership, attendance, or expenses.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 5, eff. September 1, 2005.

Sec. 110.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) An officer, employee, or paid consultant of a Texas trade association in the field of sex offender treatment may not be a member of the council and may not be an employee of the council who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(c) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association in the field of sex offender treatment may not be a member of the council and may not be an employee of the council who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group A17, of the position classification salary schedule.

(d) A person may not serve as a member of the council or act as the general counsel to the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the council.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.054. TERMS. Members of the council serve staggered

six-year terms. The terms of two or three members expire on February 1 of each odd-numbered year.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 15.004(b), eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 6, eff. September 1, 2005.

Sec. 110.055. PRESIDING OFFICER. The governor shall designate a member of the council as the presiding officer of the council to serve in that capacity at the pleasure of the governor. Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.056. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the council that a member:

(1) does not have at the time of appointment the qualifications required by Sections 110.051(b) and 110.052;

(2) does not maintain during service on the council the qualifications required by Sections 110.051(b) and 110.052;

(3) does not complete the training program as required by Section 110.059;

(4) violates a prohibition established by Section 110.053;

(5) cannot because of illness or disability discharge the member's duties for a substantial part of the member's term; or

(6) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the council.

(b) The validity of an action of the council is not affected by the fact the action is taken when a ground for removal of a council member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the

presiding officer of the council of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the council, who shall notify the governor and the attorney general that a potential ground exists.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.057. MEETINGS. (a) The council shall meet at least four times each year.

(b) The council may hold additional meetings at the call of the presiding officer or as provided by council rule.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.058. COMPENSATION; REIMBURSEMENT. (a) A council member may not receive compensation for performing the duties of the council.

(b) A council member is entitled to reimbursement for travel and other necessary expenses incurred in performing official duties at the rate provided in the General Appropriations Act for state employees.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.059. TRAINING. (a) To be eligible to take office as a member of the council, a person appointed to the council must complete at least one course of a training program that complies with this section. If the person has not completed the training course at the time of the appointment, the person must complete the training program not later than six months after the date of appointment.

(b) The training program must provide information to a person regarding:

- (1) the enabling legislation that created the council;

- (2) the programs operated by the council;
- (3) the role and functions of the council;
- (4) the rules of the council, with an emphasis on the rules relating to disciplinary and investigatory authority;
- (5) the current budget for the council;
- (6) the results of the most recent formal audit of the council;
- (7) the requirements of Chapters 551, 552, and 2001, Government Code;
- (8) the requirements of the conflict of interest laws and other laws relating to public officials; and
- (9) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) A person appointed to the council is entitled to reimbursement for travel expenses incurred in attending the training program, as provided by the General Appropriations Act, as if the person were a member of the council.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

SUBCHAPTER C. EXECUTIVE DIRECTOR AND STAFF

Sec. 110.101. EXECUTIVE DIRECTOR. The commissioner of state health services shall employ an executive director, chosen with the advice and consent of the council, who is the executive head of the council and performs its administrative duties.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.002, eff. April 2, 2015.

Sec. 110.102. STAFF. The executive director shall employ staff necessary to administer the council's duties.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.103. DIVISION OF RESPONSIBILITIES. The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the executive director and the staff of the council.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.104. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The executive director or the executive director's designee shall provide, as often as necessary, to council members and employees information regarding their:

(1) qualifications for office or employment under this chapter; and

(2) responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

SUBCHAPTER D. COUNCIL POWERS AND DUTIES

Sec. 110.151. TREATMENT FOR SEX OFFENDERS. The council shall:

(1) develop treatment strategies for sex offenders by evaluating in-state and out-of-state programs for sex offender treatment;

(2) set standards for treatment of sex offenders that must be met by sex offender treatment providers to be eligible for a license under this chapter; and

(3) recommend to licensing and regulatory boards and to the directors of current programs methods of improving programs to meet council standards.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 7, eff. September 1, 2005.

Sec. 110.152. LIST AND LICENSE REQUIREMENTS. The council shall:

(1) maintain a list of sex offender treatment providers under Section 110.161; and

(2) develop and implement by rule under Subchapter G:

(A) license requirements; and

(B) procedures for sex offender treatment providers.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 8, eff. September 1, 2005.

Sec. 110.153. COLLECTION AND DISSEMINATION OF INFORMATION. The council shall collect and disseminate information about available sex offender treatment programs to:

(1) judicial officers;

(2) community supervision or parole workers;

(3) appropriate state and municipal agencies; and

(4) the public.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.154. DISTRIBUTION OF MONEY. The council shall distribute money appropriated to the council by the legislature for that purpose to political subdivisions, private organizations, or other persons to be used for the development, operation, or evaluation of sex offender treatment programs.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.155. AGENCY ASSISTANCE. The council shall advise and assist agencies in coordinating procedures to provide treatment services. The treatment services may include community-based programs.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.156. ADJUDICATION INFORMATION. (a) The council shall establish a uniform method of obtaining adjudication information. The uniform method must require that:

(1) a complete set of fingerprints, the complete name of the person being investigated, or other information necessary to conduct a criminal history background check be submitted to the Department of Public Safety or another law enforcement agency; and

(2) if fingerprints are submitted, the fingerprints be submitted to the Federal Bureau of Investigation for further information if a relevant disqualifying record or other substantive information is not obtained from a state or local law enforcement agency.

(b) A law enforcement agency may provide to the council information about the conviction or deferred adjudication of a person being investigated only if the information:

(1) is relevant to the person's current or proposed registration; and

(2) was collected in accordance with this section.

(c) The council is not entitled to adjudication information that is not relevant. Adjudication information is relevant only if it relates to a conviction or deferred adjudication for:

(1) a sexual offense;

(2) murder, assault, battery, or any other offense involving personal injury or threat to another person; or

(3) a felony not listed in Subdivision (1) or (2).

(d) All adjudication information received by the council is privileged information and for the exclusive use of the council. The information may be released or otherwise disclosed to any other person or agency only:

(1) on court order; or

(2) with the consent of the person being investigated.

(e) The council by rule shall establish a method to collect and destroy adjudication information after the council makes a decision on the eligibility of the person for registration who is

the subject of the information. The council shall destroy the adjudication information not later than the first anniversary of the date of the council's decision on the person's eligibility for registration.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.157. CONTINUING EDUCATION PROGRAMS. The council shall design and conduct continuing education programs for sex offender treatment providers.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.158. RULEMAKING. (a) The council may adopt rules consistent with this chapter. In adopting rules, the council shall:

(1) consider the rules and procedures of the department; and

(2) adopt procedural rules consistent with similar existing rules and procedures of the department.

(b) A sex offender treatment provider licensed under this chapter is subject to the rules of the council, in relation to the person's provision of sex offender treatment, rather than the rules of the licensing entity by which the provider is licensed or otherwise regulated. A sex offender treatment provider who acts in conformance with the rules, policies, and procedures of the council is not subject to any administrative sanction against the provider by the licensing entity by which the provider is licensed or otherwise regulated.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1219 (H.B. [2034](#)), Sec. 3, eff. September 1, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.003, eff. April 2, 2015.

Sec. 110.159. FEES. (a) The council shall:

- (1) charge and collect reasonable fees in amounts necessary to cover the costs of administering this chapter; and
- (2) send all fees collected under this section to the department.

(a-1) Notwithstanding Subsection (a), the council shall set fees for issuing or renewing a license in amounts designed to allow the department and the council to recover from the license holders all of the direct and indirect costs to the department and to the council in administering and enforcing this chapter.

(b) Fees charged and collected by the council under this section may include:

- (1) sex offender treatment provider license and renewal fees;
- (2) training fees;
- (3) publication fees; and
- (4) fees for providing continuing education and other services to sex offender treatment providers.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 9, eff. September 1, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.004, eff. April 2, 2015.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.005, eff. April 2, 2015.

Sec. 110.160. BIENNIAL REPORT. (a) The council shall file biennially a report with the governor, lieutenant governor, and speaker of the house of representatives about the activities of the council. The council shall include in the report:

- (1) any recommendation made under Section 110.151; and
- (2) any other recommendation the council considers appropriate.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept.

1, 2003.

Sec. 110.161. PUBLICATION OF LIST. (a) The council shall prepare annually a list of sex offender treatment providers.

(b) The council by rule shall establish procedures for developing and distributing the list of sex offender treatment providers.

(c) The council, on request, shall make the list of sex offender treatment providers available on payment of a reasonable fee in an amount sufficient to cover the costs of printing and distribution.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 10, eff. September 1, 2005.

Sec. 110.162. CONFIDENTIALITY REQUIRED. The council and the staff and consultants employed by the council shall keep confidential any record relating to the identity, examination, diagnosis, prognosis, or treatment of a sex offender.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.163. GRANTS AND DONATIONS. The council may apply for and accept on behalf of the state a grant or donation from any source to be used by the council to perform its duties.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.164. DYNAMIC RISK ASSESSMENT TOOL. (a) The council shall develop or adopt a dynamic risk assessment tool to be used in determining the likelihood that a person who is confined in a penal institution and will become subject to Chapter 62, Code of Criminal Procedure, on being released from the institution will commit an offense described by Article 62.001(5), Code of Criminal Procedure, after being released from the institution.

(b) The dynamic risk assessment tool must enable the assignment to a person of a risk level of low, medium, or high. Added by Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 46, eff. June 15, 2007.

SUBCHAPTER E. INTERAGENCY ADVISORY COMMITTEE

Sec. 110.201. INTERAGENCY ADVISORY COMMITTEE. The interagency advisory committee shall advise the council on administering the council's duties under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.202. ADVISORY COMMITTEE MEMBERSHIP.

(a) The executive head of each of the following agencies or that person's designated representative shall serve as a member of the interagency advisory committee:

- (1) Texas Department of Criminal Justice;
- (2) Texas Juvenile Justice Department;
- (3) the department;
- (4) Sam Houston State University;
- (5) Department of Family and Protective Services; and
- (6) Texas Council of Community Centers.

(b) The director of each of the following divisions of a state agency or that person's designated representative shall serve as a member of the interagency advisory committee:

- (1) the criminal justice division of the governor's office; and
- (2) the sexual assault prevention and crisis services division of the office of the attorney general.

(c) The council may appoint additional members to the interagency advisory committee as the council determines is necessary. An additional member appointed by the council must be a representative of a public or private nonprofit entity that has a demonstrated interest in improving the treatment of sex offenders.

(d) If the executive head of a state agency or the director of a division designates a representative as a member of the

interagency advisory committee, the representative must be, at the time of the designation and during the time of service on the committee, an officer or employee of the agency or division.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.006, eff. April 2, 2015.

Sec. 110.203. MEETINGS. The interagency advisory committee shall meet at the call of its presiding officer or at the request of the council.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.204. AGENCY COOPERATION. Each state agency or division of an agency represented on the interagency advisory committee shall cooperate with the council at the request of the council.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

SUBCHAPTER F. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 110.251. PUBLIC INTEREST INFORMATION. (a) The council shall prepare information of public interest describing the functions of the council and the procedures by which complaints are filed with and resolved by the council.

(b) The council shall make the information available to the public and appropriate state agencies.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.252. PUBLIC PARTICIPATION. (a) The council shall develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the council's jurisdiction.

(b) The executive director shall prepare and maintain a written plan describing how a person who does not speak English may be provided reasonable access to the council's programs and services.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.253. COMPLAINTS. The council by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the council for the purpose of directing complaints to the council. The council may provide for that notice:

(1) on each license form, application, or written contract for services of a person regulated under this chapter;

(2) on a sign prominently displayed in the place of business of each person regulated under this chapter; or

(3) in a bill for service provided by a person regulated under this chapter.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. [2036](#)), Sec. 11, eff. September 1, 2005.

Sec. 110.254. RECORD OF COMPLAINTS. (a) The council shall keep an information file about each written complaint filed with the council that the council has authority to resolve. The information file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received;

(3) the subject matter of the complaint;

(4) the name of each person 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.

(b) The council shall provide to a person filing a complaint and to each person who is the subject of the complaint a copy of the council's policies and procedures relating to complaint investigation and resolution.

(c) The council, at least quarterly and until final disposition of a complaint, shall notify the person filing the complaint and each person who is the subject of the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Sec. 110.255. COMPLAINT INVESTIGATION; SUBPOENAS. (a) In an investigation of a complaint filed with the council, the council may request that the commissioner of state health services or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the council may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence in this state. The council may delegate the authority granted under this subsection to the executive director of the council.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the council, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or the county in which a hearing conducted by the council may be held.

(d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(e) The council shall pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the council may charge for copies of its records.

(f) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section

[2001.103](#), Government Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.007, eff. April 2, 2015.

Sec. 110.256. CONFIDENTIALITY. (a) Except as provided by Subsection (b), all information and materials subpoenaed or compiled by the council in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter [552](#), Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the council or its employees or agents involved in the complaint and investigation.

(b) The information described by Subsection (a) may be disclosed to:

(1) persons involved with the council in a complaint and investigation;

(2) professional sex offender treatment provider licensing or disciplinary boards in other jurisdictions;

(3) an approved peer assistance program, as defined by Section [467.001](#), Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information is deleted.

(c) The filing of formal charges by the council against a person under this chapter, the nature of those charges, the council's disciplinary proceedings, and final disciplinary actions, including warnings and reprimands, by the council are not confidential and are subject to disclosure in accordance with Chapter [552](#), Government Code.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. [219](#)), Sec. 5.008, eff. April 2, 2015.

SUBCHAPTER G. SEX OFFENDER TREATMENT PROVIDER LICENSE

Sec. 110.301. LICENSE REQUIRED. (a) A person may not provide sex offender treatment or act as a sex offender treatment provider unless the person is licensed under this chapter.

(b) A person may not claim to be a sex offender treatment provider, or use the title "sex offender treatment provider" or a similar title or an abbreviation that implies the person is a sex offender treatment provider, unless the person is licensed under this chapter.

(c) This section does not apply to a physician whose treatment of a sex offender is limited to prescribing medication to the sex offender.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 13, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1219 (H.B. 2034), Sec. 4, eff. September 1, 2007.

Sec. 110.302. LICENSE REQUIREMENTS. (a) The council by rule shall develop procedures and eligibility and other requirements for issuance of a license under this chapter, including, if appropriate, requirements related to clinical practice experience and assessment, continuing education, and supervision.

(b) In developing the rules, the council shall coordinate with the Texas Department of Criminal Justice and the Texas Juvenile Justice Department.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch. 263
(S.B. 103), Sec. 61

(c) The Texas Board of Criminal Justice may vote to exempt employees of the Texas Department of Criminal Justice from a

specific licensing requirement imposed under this section if the board determines that the requirement causes financial or operational hardship on the agency. The Texas Youth Commission may not exempt any employee of the commission from a licensing requirement imposed by this section for any reason.

Text of subsection as amended by Acts 2007, 80th Leg., R.S., Ch.

1308 (S.B. 909), Sec. 47

(c) The governing board of the Texas Youth Commission may vote to exempt employees of the Texas Youth Commission from a specific licensing requirement imposed under this section if the board determines that the requirement causes financial or operational hardship on the agency. The Texas Board of Criminal Justice may not exempt any employee of the Texas Department of Criminal Justice from a licensing requirement imposed by this section for any reason.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 14, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 61, eff. June 8, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1308 (S.B. 909), Sec. 47, eff. June 15, 2007.

Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.009, eff. April 2, 2015.

Sec. 110.303. LICENSE OF OUT-OF-STATE APPLICANTS. The council may waive any prerequisite to a license for an applicant after reviewing the applicant's credentials and determining that the applicant holds a valid license from another state that has license requirements substantially equivalent to those of this state.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 15, eff. September 1, 2005.

Sec. 110.304. CONVICTION OR DEFERRED ADJUDICATION INFORMATION. The council may receive from a law enforcement agency information about the conviction or deferred adjudication of a person who has applied for a license or renewal of a license.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 16, eff. September 1, 2005.

Sec. 110.3045. LICENSE TERM. A license issued under this chapter is valid for two years.

Added by Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 5.010, eff. April 2, 2015.

Sec. 110.305. LICENSE EXPIRATION. (a) The council by rule may adopt a system under which licenses expire on various dates during the year.

(b) For the year in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each person pays only that portion of the license fee allocable to the number of months during which the license is valid.

(c) On renewal of a license on the new expiration date, the total license renewal fee is payable.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 17, eff. September 1, 2005.

Sec. 110.306. LICENSE RENEWAL REQUIRED. A person whose license has expired may not engage in activities that require a license until the license is renewed.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 18, eff. September 1, 2005.

Sec. 110.307. PROCEDURE FOR RENEWAL. (a) Not later than the 30th day before the expiration date of a person's license, the council shall send written notice of the license expiration to the person at the person's last known address according to the records of the council.

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

(c) A person who is otherwise eligible to renew a license and whose license has been expired for:

(1) 90 days or less, may renew the license by paying to the council a fee equal to one and one-half times the required renewal fee; and

(2) longer than 90 days but less than one year, may renew the license by paying to the council a fee equal to two times the required renewal fee.

(d) Except as provided by Section 110.308, a person whose license has been expired for one year or longer may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 19, eff. September 1, 2005.

Sec. 110.308. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. A person whose license has been expired for one year or longer may renew the license without complying with the requirements of Section 110.307(d) by paying to the council a fee

equal to two times the required renewal fee if the person:

- (1) was licensed in this state;
- (2) moved to another state; and
- (3) has been licensed and in practice in the other

state for two years preceding the date of application for renewal.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 20, eff. September 1, 2005.

Sec. 110.309. DENIAL OF LICENSE. The council may deny an application for a license if:

(1) the council determines that a previous criminal conviction or deferred adjudication indicates the applicant is not qualified or suitable; or

(2) the applicant fails to provide the information described by Section 110.156(a)(1).

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 21, eff. September 1, 2005.

SUBCHAPTER H. DISCIPLINARY PROCEDURES

Sec. 110.351. DISCIPLINARY POWERS OF COUNCIL. The council shall revoke, suspend, or refuse to renew a license, place on probation a person whose license has been suspended, or reprimand a person who is licensed under this chapter if the person violates this chapter or a rule of the council.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 22, eff. September 1, 2005.

Sec. 110.352. PROBATION. If the suspension of a person's license is probated, the council may require the person to:

(1) report regularly to the council on matters that are the basis of the probation;

(2) limit the person's practice to the areas prescribed by the council; or

(3) continue or review professional education until the person attains a degree of skill satisfactory to the council in those areas that are the basis of the probation.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 23, eff. September 1, 2005.

Sec. 110.353. DISCIPLINARY HEARING. (a) If the council proposes to revoke, suspend, or refuse to renew a person's license, the person is entitled to a hearing conducted by the State Office of Administrative Hearings.

(b) Disciplinary proceedings are governed by Chapter 2001, Government Code.

(c) Rules of practice adopted by the council under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 24, eff. September 1, 2005.

Sec. 110.354. EMERGENCY SUSPENSION. (a) The council or a three-member committee of council members designated by the council shall temporarily suspend the license of a person licensed under this chapter if the council or committee determines from the evidence or information presented to it that continued practice by the person would constitute a continuing and imminent threat to the

public welfare.

(b) A license may be suspended under this section without notice or hearing on the complaint if:

(1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and

(2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.

(c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 25, eff. September 1, 2005.

SUBCHAPTER I. CRIMINAL PENALTIES

Sec. 110.401. OFFENSE. (a) A person commits an offense if the person violates Section 110.301.

(b) An offense under this section is a Class A misdemeanor.
Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 27, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 28, eff. September 1, 2005.

Sec. 110.402. OFFENSE: RELEASE OF ADJUDICATION INFORMATION. (a) A person commits an offense if the person releases or discloses in violation of Section 110.156 adjudication information received by the council.

(b) An offense under this section is a Class A misdemeanor.
Added by Acts 2003, 78th Leg., ch. 1276, Sec. 14.005(a), eff. Sept. 1, 2003.

SUBCHAPTER J. ADMINISTRATIVE PENALTY

Sec. 110.451. IMPOSITION OF ADMINISTRATIVE PENALTY. The council may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.452. AMOUNT OF ADMINISTRATIVE PENALTY. (a) The amount of the administrative penalty may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(b) The amount shall be based on:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;
- (2) the economic harm caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts to correct the violation; and
- (6) any other matter that justice may require.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.453. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the executive director determines that a violation occurred, the executive director may issue to the council a report stating:

- (1) the facts on which the determination is based; and
- (2) the executive director's recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

(b) Within 14 days after the date the report is issued, the executive director shall give written notice of the report to the person. The notice must:

(1) include a brief summary of the alleged violation;
(2) state the amount of the recommended administrative penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.454. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 20 days after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended administrative penalty of the executive director; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the executive director, or fails to respond in a timely manner to the notice, the council by order shall approve the determination and impose the recommended penalty.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.455. HEARING. (a) If the person requests a hearing, the executive director shall set a hearing and give written notice of the hearing to the person.

(b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.

(c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the council a proposal for a decision about the occurrence of the violation and the amount of a proposed administrative penalty.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.456. DECISION BY COUNCIL. (a) Based on the findings of fact, conclusions of law, and proposal for decision,

the council by order may determine that:

(1) a violation occurred and impose an administrative penalty; or

(2) a violation did not occur.

(b) The notice of the council's order given to the person must include a statement of the right of the person to judicial review of the order.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.457. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

(a) Within 30 days after the date the council's order becomes final, the person shall:

(1) pay the administrative penalty; or

(2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the council's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the executive director by certified mail.

(c) If the executive director receives a copy of an affidavit under Subsection (b)(2), the executive director may file with the court, within five days after the date the copy is received, a contest to the affidavit.

(d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.458. COLLECTION OF PENALTY. (a) If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.459. DETERMINATION BY COURT. (a) If the court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. 2036), Sec. 26, eff. September 1, 2005.

Sec. 110.460. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the administrative penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(d) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(e) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. [2036](#)), Sec. 26, eff. September 1, 2005.

Sec. 110.461. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is a contested case under Chapter [2001](#), Government Code.

Added by Acts 2005, 79th Leg., Ch. 1089 (H.B. [2036](#)), Sec. 26, eff. September 1, 2005.