882.42. 882.42. Ineligibility Due to Criminal History.

Action: Proposed Amendment

Comment: The proposed amendments are made to conform the rule to the statutory changes made to Section 53.021 of the Occupations Code by S.B. 1080 from the 89th Legislature, Regular Session (2025).

§882.42. Ineligibility Due to Criminal History.

(a) The Council may revoke or suspend a license, disqualify a person from receiving or renewing a license, or deny a person the opportunity to be examined for a license due to a felony or misdemeanor conviction, or a plea of guilty or nolo contendere followed by deferred adjudication, if the offense:

(1) is listed in Article 42A.054 of the Code of Criminal Procedure;

(2) was a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure; or

(3) directly relates to the duties and responsibilities of a licensee.

(b) In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency shall consider the factors listed in §53.022 of the Occupations Code. Each member board shall determine which crimes are directly related to the duties and responsibilities of its licensees.

(c) If the agency determines that a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency must consider the factors listed in §53.023 of the Occupations Code when determining whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination. It shall be the responsibility of the applicant or licensee to provide documentation or explanations concerning each of the factors listed in the law. Any documentation or explanations received will be considered by the agency when deciding whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination.

(d) Notwithstanding any schedule of sanctions adopted by the Council or a member board, the Council ~~shall~~:

(1) shall revoke a license due to a felony conviction under §35A.02 of the Penal Code, concerning Medicaid fraud, in accordance with §36.132 of the Human Resources Code;

(2) shall revoke or suspend a license for unprofessional conduct in accordance with §105.002 of the Occupations Code; ~~and~~

(3) shall revoke a license due to a license holder's imprisonment following a felony conviction for: ~~, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.~~

(i) an offense that directly relates to the duties and responsibilities of the licensed occupation;

(ii) an offense listed in Article 42A.054, Code of Criminal Procedure; or

(iii) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure;

(4) shall revoke a license due to a license holder's felony community supervision revocation, revocation of parole, or revocation of mandatory supervision; or

(5) may revoke a license due to a license holder's imprisonment following a felony conviction.

(e) In accordance with Chapter 108 of the Occupations Code, an application for licensure as a psychologist or social worker will be denied if the applicant:

(1) is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure;

(2) has been previously convicted of or placed on deferred adjudication for the commission of a felony offense involving the use or threat of force; or

(3) has been previously convicted of or placed on deferred adjudication for the commission of an offense:

(A) under §§22.011, 22.02, 22.021 or 22.04 of the Penal Code, or an offense under the laws of another state or federal law that is equivalent to an offense under one of those sections;

(B) during the course of providing services as a health care professional; and

(C) in which the victim of the offense was a patient.

(f) A person whose application was denied under subsection (e) of this section may reapply for licensure if the person meets the requirements of §108.054 of the Occupations Code.

(g) In accordance with §108.053 of the Occupations Code, the Council shall revoke the license of a psychologist or social worker if the licensee is:

(1) convicted or placed on deferred adjudication for an offense described by subsection (e)(2) or (3) of this section; or

(2) required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure.

(h) The Council will provide notice to a person whose application has been denied due to criminal history as required by §53.0231 and §53.051 of the Occupations Code.

(i) A criminal offense committed in another state, tribal, territorial, or commonwealth jurisdiction or under federal law is subject to this rule if the offense is substantially similar to an offense listed in this rule.