

ADOPTION AGENCY MODIFICATIONS

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Luz Robles**

House Sponsor: Ryan D. Wilcox

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**LONG TITLE**

**General Description:**

This bill amends Title 62A, Chapter 2, Licensure of Programs and Facilities.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ requires the Office of Licensing to implement ethical rules prohibiting an adoption agency or an employee of an adoption agency from misrepresenting facts or information; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**62A-2-106**, as last amended by Laws of Utah 2009, Chapter 75

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **62A-2-106** is amended to read:

**62A-2-106. Office responsibilities.**

(1) Subject to the requirements of federal and state law, the office shall:

(a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative

30 Rulemaking Act, to establish:

31 (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for  
32 licensees, that shall be limited to:

33 (A) fire safety;

34 (B) food safety;

35 (C) sanitation;

36 (D) infectious disease control;

37 (E) safety of the:

38 (I) physical facility and grounds; and

39 (II) area and community surrounding the physical facility;

40 (F) transportation safety;

41 (G) emergency preparedness and response;

42 (H) the administration of medical standards and procedures, consistent with the related  
43 provisions of this title;

44 (I) staff and client safety and protection;

45 (J) the administration and maintenance of client and service records;

46 (K) staff qualifications and training, including standards for permitting experience to  
47 be substituted for education, unless prohibited by law;

48 (L) staff to client ratios; and

49 (M) access to firearms;

50 (ii) basic health and safety standards for therapeutic schools, that shall be limited to:

51 (A) fire safety, except that the standards are limited to those required by law or rule  
52 under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;

53 (B) food safety;

54 (C) sanitation;

55 (D) infectious disease control, except that the standards are limited to:

56 (I) those required by law or rule under Title 26, Utah Health Code or Title 26A, Local  
57 Health Authorities; and

- 58           (II) requiring a separate room for clients who are sick;
- 59           (E) safety of the physical facility and grounds, except that the standards are limited to
- 60 those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks
- 61 Act;
- 62           (F) transportation safety;
- 63           (G) emergency preparedness and response;
- 64           (H) access to appropriate medical care, including:
- 65           (I) subject to the requirements of law, designation of a person who is authorized to
- 66 dispense medication; and
- 67           (II) storing, tracking, and securing medication;
- 68           (I) staff and client safety and protection that permits the school to provide for the direct
- 69 supervision of clients at all times;
- 70           (J) the administration and maintenance of client and service records;
- 71           (K) staff qualifications and training, including standards for permitting experience to
- 72 be substituted for education, unless prohibited by law;
- 73           (L) staff to client ratios; and
- 74           (M) access to firearms;
- 75           (iii) procedures and standards for permitting a licensee to:
- 76           (A) provide in the same facility and under the same conditions as children, residential
- 77 treatment services to a person 18 years old or older who:
- 78           (I) begins to reside at the licensee's residential treatment facility before the person's
- 79 18th birthday;
- 80           (II) has resided at the licensee's residential treatment facility continuously since the
- 81 time described in Subsection (1)(a)(iii)(A)(I);
- 82           (III) has not completed the course of treatment for which the person began residing at
- 83 the licensee's residential treatment facility; and
- 84           (IV) voluntarily consents to complete the course of treatment described in Subsection
- 85 (1)(a)(iii)(A)(III); or

- 86 (B) (I) provide residential treatment services to a child who is:  
87 (Aa) 12 years old or older; and  
88 (Bb) under the custody of the Division of Juvenile Justice Services; and  
89 (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I),  
90 residential treatment services to a person who is:  
91 (Aa) at least 18 years old, but younger than 21 years old; and  
92 (Bb) under the custody of the Division of Juvenile Justice Services;  
93 (iv) minimum administration and financial requirements for licensees; ~~and~~  
94 (v) guidelines for variances from rules established under this Subsection (1); and  
95 (vi) minimum ethical responsibilities of an adoption agency licensed under this  
96 chapter, including prohibiting an adoption agency or its employee from misrepresenting facts  
97 or information;  
98 (b) enforce rules relating to the office;  
99 (c) issue licenses in accordance with this chapter;  
100 (d) if the United States Department of State executes an agreement with the office that  
101 designates the office to act as an accrediting entity in accordance with the Intercountry  
102 Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to  
103 provide intercountry adoption services pursuant to:  
104 (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and  
105 (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L.  
106 No. 106-279;  
107 (e) make rules to implement the provisions of Subsection (1)(d);  
108 (f) conduct surveys and inspections of licensees and facilities in accordance with  
109 Section 62A-2-118;  
110 (g) collect licensure fees;  
111 (h) notify licensees of the name of a person within the department to contact when  
112 filing a complaint;  
113 (i) investigate complaints regarding any licensee or human services program;

114 (j) have access to all records, correspondence, and financial data required to be  
115 maintained by a licensee;

116 (k) have authority to interview any client, family member of a client, employee, or  
117 officer of a licensee; and

118 (l) have authority to deny, condition, revoke, suspend, or extend any license issued by  
119 the department under this chapter by following the procedures and requirements of Title 63G,  
120 Chapter 4, Administrative Procedures Act.

121 (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a  
122 licensee to establish and comply with an emergency response plan that requires clients and staff  
123 to:

124 (a) immediately report to law enforcement any significant criminal activity, as defined  
125 by rule, committed:

126 (i) on the premises where the licensee operates its human services program;

127 (ii) by or against its clients; or

128 (iii) by or against a staff member while the staff member is on duty;

129 (b) immediately report to emergency medical services any medical emergency, as  
130 defined by rule:

131 (i) on the premises where the licensee operates its human services program;

132 (ii) involving its clients; or

133 (iii) involving a staff member while the staff member is on duty; and

134 (c) immediately report other emergencies that occur on the premises where the licensee  
135 operates its human services program to the appropriate emergency services agency.