

NCFCA “Principles of Good Practice in Infant Adoption”

The field of adoption has undergone tremendous changes in the past fifteen to twenty years. Changes in societal attitudes about adoption and single parenting have had an impact on the demand for services from women with problem pregnancies and couples wishing to adopt. Currently there are approximately 25,000 healthy American infants available for adoption each year. It is estimated that there were between one and two million qualified couples who are interested in adopting. This imbalance has significantly changed the nature of services as couples compete for the few available infants. The result has been that there is much variation in practices among agencies and individuals involved with private placements.

Some of the changes have been positive as agencies and private practitioners compete to provide the most responsive services to clients. However, the competitiveness has also caused, in some cases, agencies and private practitioners to engage in unprofessional and unethical practices in order to maintain an edge in the “market.” There is a great deal of disparity in regulations from state to state and between agency and private placements. There is greater opportunity for abuse in adoption placements that are not appropriately regulated.

Historically, there has been tension between adoption agencies and private practitioners even when both agencies and practitioners have been operating in good, ethical ways. Currently, about half of all infant adoptions in the United States are being done by agencies and the other half by private practitioners. This trend is likely to continue. Many in the field are concerned about the unprofessional and unethical practices in both systems and have expressed a desire to set basic standards for good adoption practices to protect the parties in an adoption and to protect adoption as an important family building institution. To this end, the National Council For Adoption convened a group of persons representing adoption placements to define principles of good maternity services and adoption practices and propose basic standards for all persons and agencies in adoption placements.

The following report is the result of a process of discussion and consensus building. The intent of the report is 1) to provide minimal standards for individuals and agencies providing adoption services, and 2) to provide guidance to states to ensure that services are provided in a professional and ethical manner. Each state has its laws governing adoption practices which will affect the implementation of these standards. Some states do not allow adoption placement by private practitioners; others allow it under limited conditions. The Council was aware of these differences when developing these principles and allows for flexibility in interpretation. The Council recommends that the following principles be applied.

A. Responsibilities of Adoption Specialist

Traditionally, society has seen adoption and related services as the responsibility of those licensed or approved agencies which have been able, through a multidisciplinary team, to offer quality services to the full circle of clients. As changes in the adoption field have taken place leading to increasing involvement by individuals such as attorneys, physicians, and social workers in adoptions outside agency settings, interest has been expressed in monitoring and recognizing these individuals' practices. Among the steps that can be implemented to improve the standing of individuals in any field is to create a mechanism for approving or certifying such individuals in order that they may have special standing. The certifying of "Adoption Specialist" is a new recognition procedure aimed at meeting this need.

An Adoption Specialist is an individual who is recognized in the community in which he or she practices as being an expert in the field of adoption by virtue of his/her training and experience in adoption practice, is known to practice the highest standards of quality, ethical practices in adoption, and subscribes to the tenets of these ethical guidelines.

An Adoption Specialist may be by profession a social worker, attorney, physician, psychologist, counselor, clergy person, or individual in another related professional field. If certification as an Adoption Specialist is available by a state or other independent organization, the Adoption Specialist would be required to maintain his or her certification in good standing. Certification provides assurances to potential clients – birthparents and prospective adoptive parents – that the Adoption Specialist is competent to provide services related to adoption.

An Adoption Specialist may work in an adoption agency setting or independently. The Adoption Specialist must assure that all necessary adoption-related services are provided to clients either directly or in conjunction with other Adoption Specialists. Adoption Specialists should refer clients only to other Adoption Specialists for services related to the adoption. Birthparents shall not be discriminated against because of race, ethnicity, or religion. Wishes of the birthparent should be considered when making an adoption plan for a child.

A process should be established within each state to determine the experiential and educational requirements for professionals seeking Adoption Specialist status. These requirements should take into consideration the special skills and knowledge required for the types of adoption (i.e., infant, special needs, international, interstate, related, etc.) in which the Adoption Specialist would be involved. No person should be considered an Adoption Specialist capable of rendering social services or legal services in connection with an adoption without professional degree in the particular field of practice and a minimum of one year, one hundred (100) hours and ten (10) cases of adoption experience under the supervision of an Adoption Specialist. In addition, the Adoption Specialist is required to be licensed in his or her profession, if applicable. If the Adoption Specialist is engaged in interstate placement of children, he or she must have completed three (3) cases under the supervision of an individual who is an Adoption Specialist who has already satisfied the minimum requirements for interstate placement.

In general, the Adoption Specialist must devote a substantial part of his or her professional practice or work in the area of adoption, maintain a current license, if applicable, and be in good standing in his or her profession. Moreover, any person so designated must participate, on an annual basis, in a minimum of six (6) hours of continuing professional education programs in the field of adoption.

Only counselors who are Adoption Specialists, meaning they are specially trained and experienced in adoption-related services, including knowledge about crisis pregnancy issues, infertility, separation issues for all members of the adoption circle and community resources for continuing financial, medical, social, and legal services, should provide counseling to the various members of the adoption circle. Because of the potential for conflict of interest, the same person should not counsel both the birthmother and prospective adoptive parents.

B. Counseling for All Parties in an Adoption – Birthparents and Prospective Adoptive Parents

Although counseling is by nature a voluntary process because it requires the willingness of participants for satisfactory and effective outcomes, the state has an interest in protecting all parties in adoption to ensure that all are informed of their rights and obligations, and their options.

Counseling for the Birthmother and Birthfather

Counseling should be made available to both birthmother and, whenever possible, birthfather to ensure that they are comfortable with their adoption decision and are provided the necessary support to make this a positive experience. Because of the difficulty in involving many fathers, the focus of this paper will be on birthmothers; however, the same issues addressed with the birthmothers should also be addressed with birthfathers. Many birthmothers do not understand the counseling process and some may be intimidated by it because of the stigma often associated with counseling. A special effort shall be made by the Adoption Specialist to explain the purpose of counseling for her education and decision-making. There is a myth that birthmothers do not want counseling. A skilled counselor usually can engage birthmothers in the process by explaining what will be expected of them, the potential benefits of counseling and by addressing concerns and misunderstandings about the process.

At the minimum, counseling for the birthmother shall include information on adoption and the adoption process, an explanation of her legal rights and responsibilities, and an assessment of her understanding of adoption and the impact of her decision on herself, her child, her family, the birthfather, etc. and her willingness to make an adoption plan without coercion or outside pressure. It is also during this process that a social and medical history is gathered to be transmitted to the adoptive parents and child.

Ideally, each counseling process should also include an exploration of the birthmother's feelings about her pregnancy and the adoption, her alternatives, her relationships with family, the father of the baby, and other significant others, her hopes and fears for the future, her feelings about prospective adoptive parents' concerns and needs, etc. The birthmother should be encouraged to provide input into the planning for her child's placement and should be assisted in making the adoption a positive experience about which she can feel good. Counseling should also provide information on the "normal" range of emotions the birthmother may encounter as she moves forward with the pregnancy, the adoption plan, and the grieving process. Counseling should be available to birthmothers prior to the birth and adoption and afterwards.

For most women considering adoption, an unplanned or untimely pregnancy is only one of many problems. Efforts should be made in the process to help the birthmother to address the other difficulties confronting her. The counseling process should be concerned not only with the young women in the here and now and resolving this particular pregnancy, but also should help her in taking control of her life and planning for her future. Arrangements should be made for post-adoption counseling services, when necessary. Adoptive parents should be allowed to pay for up to eight post-placement sessions within six months of placement.

Few birthmothers who are considering adoption for their children can afford to pay for counseling, particularly counseling by an individual in private practice. Because counseling is so important for a positive resolution of an adoption, it should be seen as a required service and charged to the adoptive couple in the same way medical expenses are charged to ensure the healthy delivery of the child.

Counseling for Prospective Adoptive Parents

While meaningful participation in counseling is largely voluntary for birthmothers, adoptive parents can be required to actively be involved in the counseling process as a condition of adopting. The state has a vested interest in ensuring that children placed in adoptive homes are going to families who are stable, mature, loving, informed of adoption issues as they will affect their child and themselves, and able and willing to provide the necessary guidance and support to a child as he/she grows to maturity. The counseling process for prospective adoptive parents is called the adoption study process.

The adoption study shall be done by a counselor who is an Adoption Specialist prior to the placement of a child in any adoptive home to ensure that the child is going into a safe, secure environment. At a minimum, the adoption study shall address: child abuse and criminal history checks; physical environment of the home to ensure that the child will be raised in a safe, sanitary environment; the financial security of the prospective adoptive couple to ensure that the physical needs of the child will be met; an exploration of motivation for adopting and readiness to adopt, including their feelings about their infertility and the process they may have gone through for fertility testing and treatment, the frustrations they may have felt about the wait for the adoption, loss of control, etc.; assessment of the adoptive parents' emotional maturity; the stability of the marital relationship of the prospective adoptive couple; social histories of each parent and their families; and perceptions of parenting, etc. In the case of single persons, the adoption study should address the stability of relationships of the prospective adoptive parents with significant others to ensure that his/her adult emotional needs are being met and that there are no expectations of a child meeting those needs more appropriately met by peers. The adoption study should also address:

- An exploration of the couple's stress reduction techniques, including attitudes and habits regarding drug and alcohol use;
- An exploration of concerns about the adoption process and adoptive parenting, feelings of entitlement, feelings toward birthparents, agreements with birthparents, misconceptions about adoption, expectations of children, etc.;
- Preparation for adoptive parenting, issues which may arise with their children – explaining adoption to their children, answering questions about birthparents, dealing with issues of search, etc., reactions from family and friends, dealing with societal attitudes, etc.;

- An exploration of preferences for the characteristics of the child the couple is wishing and/or willing to adopt to assure compatible matching between children and parents, i.e., racial or ethnic preference, disabilities, age, sex, etc.;
- Provision of information on support services provided by agencies or professionals in the community at different points in the child's and family's development;
- For the sectarian setting, discussion and consideration of moral values and standards of the particular religious faith of the sponsoring entity may be considered.

The adoption study process should largely be an educational process informing parents of what they may expect as adoptive parents from themselves, their children, their extended family, their friends, acquaintances, and society at large. Prospective adoptive parents should have the same opportunities as biological parents in learning parenting skills, and should be equipped with information to deal with the special challenges that adoptive parenting brings with it. Information on support groups and services should also be provided. The adoption study process shall also include a discussion of the legal process, including the birthparents' role and rights, and the prospective adoptive parents' rights and responsibilities. The prospective adoptive parents should be helped to develop a sense of entitlement and to understand that at the point of finalization they are the parents of the child they have adopted.

Whenever possible, the adoption study process should provide an opportunity of prospective adoptive parents to meet with women who, in the past, chose adoption for their children, parents who have adopted, and adopted adults. A minimum period of six months post-placement supervision prior to the finalization of an adoption should be part of the adoption study process. Arrangements should also be made for post-legal adoption counseling services as needed.

C. Legal Representation of Birthmother

A birthmother should have an attorney available to represent her interests if she so chooses; however, it should not be required of her. The attorney representing the prospective adoptive parents shall not also represent the birthmother. The attorney for the adoptive parent can take full legal responsibility for the adoption, but it must be made clear to the birthmother that the attorney is representing the adoptive parents and not the birthmother. In the event that a birthmother waives her right to legal counsel, the attorney for the adoptive parents shall explain to the birthmother her legal rights. Any birthmother, irrespective of age, may waive her right to an attorney. While it is best for the birthmother to pay her attorney's fees directly, many birthmothers are not in a financial position to do so. If the birthmother chooses to have an attorney, the prospective adoptive parents should pay for her attorney. It should be disclosed in writing that the adoptive parents are paying the birthparent(s)' attorney and that although they are paying the fee, the attorney is representing the birthmother. If the birthmother changes her mind at any time during the process and decides against placing her child with the couple, individual, or agency, or seeks to contest adoption or withdraw her consent, the prospective adoptive parents would not be expected to continue to pay for services rendered after that point. Terms and conditions of the fee shall be negotiated prior to the establishment of such an attorney/client relationship.

D. Issues of Consent and Relinquishment of the Birthmother

Every woman, regardless of age, has the right to terminate her parental rights and consent to the adoption of her child(ren). Explicit information shall be provided to all birthmothers before a consent is signed to assure that the birthmother is prepared and understand the finality of what she is signing. The consent includes issues that must be explored with each client to assure her consent is voluntary and informed. Issues include assurances that the birthmother was provided the opportunity to discuss alternatives to adoption, information on her legal rights and responsibilities, information of birthfather(s), discussion of the finality and irrevocability of adoption, assurances that her signature on the consent is voluntary, assurances that all expenses paid to her are legally permissible, etc.

An irrevocable voluntary consent may be taken at any time after 72 hours following the birth of the child or just prior to the release of the birth mother from the hospital on the condition that all effects of medication that may hamper the birthmother's state of mind are gone.

Consents can be taken before a judge or his representative, an agency representative, the birthmother's lawyer or a legislatively designated individual. A consent must be notarized or it must be sealed by the court.

E. Putative Fathers' Rights

The Committee endorses a putative fathers registry that requires that good faith and diligent efforts be made to notify certain categories of putative fathers, in addition to legal fathers, of the birthmother's plans for adoption so that they have an opportunity to assert their parental rights prior to birth. These fathers include:

- Any man adjudicated to be the father;
- Any man who was living with the mother within 300 days prior to birth of the child and contributing to the support of the mother and child;
- Any man named as the father on the child's birth certificate; and
- Any man otherwise identified as the child's father by the mother in a sworn written statement prior to filling the petition for adoption.

All other putative fathers are required to register their intentions prior to birth if they wish to receive notice of the adoption and be given the opportunity to object to the adoption. Putative fathers have the responsibility of informing themselves about the birth of the child and the procedures to follow to assert their rights. Prior to the birth of the child, a putative father should be allowed to waive irrevocably his parental rights.

F. Hospital Policies

All hospitals should provide training to all staff who come into contact with women who are planning adoption for their children to sensitize them about the emotional and legal issues surrounding adoption. All hospitals should have strict policies prohibiting any medial staff or their employees or hospital employees from attempting to influence any birthmother about adoption, whether it be efforts to convince a birthmother to change her mind for or against an adoption, or to make arrangements for the placement of a child. Prospective adoptive parents should not be allowed to contact with the mother or child in the hospital prior to the birthmother signing consent for adoption.

There will be times when birthmothers will seek a sympathetic ear from nursing staff and nurses should be prepared to provide support and be available, to the extent possible, to listen, but should refrain from giving advice. All situations which appear to require counseling shall be referred to the hospital social worker. All hospital social workers should be provided with a counselor, the counselor should be notified of the need for counseling. Unless birthmother requests counseling from the hospital social worker, the hospital social worker shall not become involved with the counseling if the birthmother has established a relationship with another counselor.

Hospital staff shall take extra care to follow the birthmother's wishes regarding contact with the baby during the hospital stay, including seeing the baby during the hospital stay, holding the baby, feeding the baby (either bottle or breast), naming the baby, rooming-in, and recovery in a non-maternity ward.

All staff who come into contact with a birthmother planning adoption shall be alerted to the importance of strict confidentiality about her condition and her plans. Information shall not be provided to individuals who call or visit the hospital about the birthmother's medical condition, reasons for hospitalization, or discharge plans or adoption plans without the expressed permission of the birthmother. Hospitals who release birth date to newspapers, etc. for publication shall not include information on babies whose birthmothers are planning adoption.

G. Use of Advertising by Prospective Adoptive Parents

The committee could not reach a consensus on whether it was appropriate for prospective adoptive couples to advertise for babies.

H. "At Risk" Placements

"At risk" placements are placements of children in prospective adoptive homes before the child is irrevocably free for adoption, (i.e., in a state in which a birthmother has a period of time which has not yet elapsed to revoke her consent, a putative father's notification or consent has been delayed, or the child has been abandoned by both parents) but all evidence indicates that in all likelihood the

child will be freed for adoption. Extreme caution should be taken with an “at risk” placements when a birthmother has not initiated discussed adoption with an Adoption Specialist prior to the birth or placement of the child. Sufficient time must be given to ensure that she has been provided adequate counseling and understands the implications of adoption for herself and her child.

Birthmothers and prospective adoptive parents should be fully informed about what an “at-risk” placement is, including the benefits and risks. Prospective adoptive parents should be prepared for the possibility that the child may be removed because of unforeseen circumstances. An assessment should be done about the entire family’s ability to cope with the tentativeness of the at-risk placement and how it will affect bonding and their parental relationship both short term and long term.

I. The Interstate Compact on the Placement of Children

There is a need to make some changes in the Interstate Compact on the Placement of Children (ICPC) so that there is more uniformity and equity between states and more expeditious processing. Currently, delays in processing and inconsistent application of the law serve as barriers to families adopting across state lines and compromises the needs and confidentiality of the birthparents and adoptive parents.

The result has been that some couples, agencies, and private practitioners have transported birthmothers to the home state of the prospective adoptive couple prior to the birth of the baby to avoid the ICPC. Uniformity in the ICPC and in state allowances for acceptable fees would prevent potential abuses of the system.

To expedite ICPC approval, it is necessary that a staff person be available at all times during working hours. Currently in many jurisdictions one person has responsibility for the ICPC, so that if that person is out of the office for any reason, no one can provide the service. State ICPC personnel should be mandated to provide a decision within two business days of the receipt of material. Telephone or fax transmission of approval should be allowable.

J. “Open” Adoption

Because of the issue of “open” adoption, or the practice of sharing of identifying information between birth and adoptive families and arrangements for contact between the parties, is so complex and the practice so varied, the committee was unable to provide comment at this time. It was felt that in order to do the issue justice, a process at least as long and comprehensive as the one that developed this document would be needed.

K. Collection and Disclosure of Non-Identifying Medical and Background Information

Information on the medical and social history of birthparents and extended families should be collected and provided to adoptive parents prior to and at the time of placement and to adopted adults (upon request) at the age of majority. All such non-identifying information should be provided to the adoptive family, orally and in writing, so that the family will have a record as issues arise. Birthparents should be provided with general, non-identifying information on the adoptive family.

At the time of placement, there shall also be a discussion with the adoptive parents of the material covered in the record. To the extent necessary and possible, the Adoption Specialist should assure that the family understands the implications of the information, how it may affect the child and the family in the future, and prognosis for possible problems, services available to the family for treatment and support, and resources for further professional advice on particular medical or social problems, etc. Prospective adoptive parents should also be assured that the Adoption Specialist arranging or assisting the placement will either provide directly or through referral, post-adoption services that will assist the adoptive family and child with any problems or concerns in the medical or social history.

Adoption Specialists arranging adoptions shall make provisions for the future transmission of non-identifying information to the birthparents or adoptees. Care must be taken to protect the confidentiality of all parties when sharing the information. Agencies or Adoption Specialists may provide a passive system for updating information on the adoptions they have arranged. Agencies or Adoption Specialists do not have to seek out the parties to an adoption every time updating material is shared, but may compile it in the record until the party requests it. There may be emergency situations when the Adoption Specialist may deem it necessary to transmit important medical information immediately.

Records shall be kept in a secure, fireproof location to ensure not only the availability of the records, but also the confidentiality of the parties involved in the adoption. No identifying information on any party to an adoption shall be released without written consent. In the event that an Adoption Specialist ceases to provide services, records shall be transferred to the appropriate state agency for safekeeping.

L. Permissible Expenses

Permissible expenses are those expenses that are necessary and directly connected to the pregnancy and the birth and adoption of the child. Nothing, whether it is cash, goods, services, gifts or other things or arrangements of value, may be offered as an inducement for relinquishment. Permissible expenses may include reasonable amounts for each of the following: counseling; secondary education; job training in a maternity home setting; prenatal and delivery medical care; room and board during the pregnancy and up to six weeks after delivery; transportation to doctor, attorney, and counselor; maternity clothes; child care for birthmother's other children during medically required confinement; counseling and adoption study for the adoptive parents; legal fees; foster care for the baby prior to placement; and post-adoption services.

M. Necessary Services for All Parties to an Adoption

The following is a list of some common service needs of birthparents and adoptive parents. Those marked with an asterisk (***) are necessary for all clients. Those marked with a bullet only may not be necessary for all clients depending on their own resources and life situation. However, the services must be readily available to those who will need them. Some states have restrictions on services which may be included as permissible expenses to the adoption fee. These restrictions do not negate the client's need for services and alternate funding or service delivery sources should be explored to meet those needs. The primary Adoption Specialist will take responsibility for coordinating services.

- Services for birthparents
- Psycho-social counseling, pre- and post-adoption to assist with the decision-making about adoption and to provide support***
- Pregnancy and delivery related medical care***
- Legal services related to the adoption of the child***
- Housing during confinement
- High school education during confinement
- Availability of an appropriate family for her child, whether the child is a member of a racial or ethnic minority, or disabled***
- Transportation of the doctor, Adoption Specialist or counseling
- Collection of birthparents' medical and social history to be shared with adoptive parents and child***
- Input into the adoption process and reception of non-identifying information about the adoptive couple***
- Foster care for infant(pre-adoptive placement)***
- Services for prospective adoptive parents
- An Adoption Study(as defined in this document)***
- Records on the child's medical and social history with non-identifying information about the child's birthparents***
- Legal services***
- Post-placement supervision ***
- Post-legal adoption services***