

SB127 HUMAN SERVICES PROGRAMS AMENDMENTS

Senator Michael K. McKell

SB127 gives the Department of Human Services Office of Licensing increased oversight of private and public congregate care programs they do not currently have in the law. Policies regarding congregate care have not been significantly updated in 15 years. This bill creates changes that reflect present day best practice in treatment and quality care.

"Congregate care program" means any of the following that provide services to a child:

- (i) an outdoor youth program;
- (ii) a residential support program;
- (iii) a residential treatment program; or
- (iv) a therapeutic school.

Congregate care programs offer room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for youth with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies. The State of Utah currently monitors 248 congregate care licenses for mostly private programs providing services to over 5,600 clients at any given time.

- The bill addresses six key areas to enable the DHS Office of Licensing to expand its oversight of health and safety standards at these programs:
 - Physical restraints**—The bill more clearly defines what physical restraints are permissible. Currently, only passive physical restraint is allowed as a temporary means to protect an individual or other individuals. This bill states what types of restraints are not permitted, such as pain compliance.
 - **Chemical restraints**—The existing statute does not specifically address chemical restraints except in the form of punishment or abuse. This bill will clarify that chemical restraints are not to be used unless they are specifically recommended by medical/clinical professionals and approved by the Office of Licensing Director.
 - **Increased on-sight visits (unannounced)**—Currently, only one scheduled annual on-site inspection of a facility is required as part of licensure, unless conducting investigations or reviews of corrective action. This bill will require licensors to conduct four on-site inspections a year for each congregate program, including unannounced. There is a fiscal note because the Office of Licensing will require additional staff to meet this enhanced on-site inspection requirement. Visits for investigations and corrective actions continue on top of these regular inspections.
 - **Suicide prevention programs**—Currently, suicide prevention is not addressed in statute. This bill will require programs to have a prevention policy.
 - **Non-discrimination**—A non-discrimination clause is missing from current statute and largely reflects the age of the current law. This bill requires ALL Human Services licensed programs to train staff in discrimination prevention and reporting, as well as bias-free communication strategies for working with individuals of all orientations and genders, in alignment with state and federal policies.

- **Publicly posting complaint process in residences**— Investigations are only possible if incidents are reported—either by the program or a client or other referent. This bill requires instructions on how to submit a complaint to the Office of Licensing to be publicly posted in residences.

These enhancements, which are supported by the National Association of Therapeutic Schools and Programs (NATSAP), the Youth Providers Association (YPA) and other private providers throughout Utah, will ensure Utah programs follow best treatment practices. It gives our licensors the ability to monitor and correct these unwanted practices that they do not have under the current law.

I ask that you pass this bill favorably to protect human rights and safety.

Recent examples addressed by the bill:

- *Line 892—Restricts Peer Restraints*
Resident-on-resident restraint without staff intervention is currently a common occurrence in congregate care facilities and can be life-threatening. In one investigated incident, a resident restrained another resident by putting him in a chokehold until he lost consciousness in a staff member's presence, and the staff member did nothing to intervene. The program was put on a conditional license and eventually chose to close.
- *Line 881—Prohibits Cruel and Unusual Treatment or Practices*
Investigations have revealed staff using physical restraint for punishment or control rather than for permissible emergency intervention to prevent immediate harm. Other incidents that resulted in licensing violations included evidence of practices designed to humiliate residents, such as not allowing a child to speak or be spoken to for days.
- *Line 412–414—Requires Reporting of All Physical Interventions and Seclusions*
Investigators have found numerous unreported incidents of potential harm and use of unnecessary force during physical interventions, constituting child abuse and client rights violations. Programs have also been cited for utilizing prolonged seclusion by disguising it as a therapeutic intervention or intensive supervision, which constitutes abuse and neglect. Abuse cases require involvement by Child Protective Services and law enforcement.
- *Line 971-977: Requires Programs to Facilitate Weekly Communication with Immediate Family Members*
Investigations have found that some children had not been permitted access to a phone or allowed to have contact with their families for months.
- *Line 912-925: Requires Documentation of Debriefings of Involved Staff and Clients*
Evidence of intentional and coerced underreporting of incidents to the Office of Licensing and/or police has allowed unacceptable practices to persist in congregate care facilities. The bill requires documented debriefings as part of the incident reporting to the Office of Licensing.