

**Effective 5/1/2024**

**26B-2-101 Definitions.**

As used in this part:

- (1) "Adoption services" means the same as that term is defined in Section 80-2-801.
- (2) "Adult day care" means nonresidential care and supervision:
  - (a) for three or more adults for at least four but less than 24 hours a day; and
  - (b) that meets the needs of functionally impaired adults through a comprehensive program that provides a variety of health, social, recreational, and related support services in a protective setting.
- (3) "Applicant" means a person that applies for an initial license or a license renewal under this part.
- (4)
  - (a) "Associated with the licensee" means that an individual is:
    - (i) affiliated with a licensee as an owner, director, member of the governing body, employee, agent, provider of care, department contractor, or volunteer; or
    - (ii) applying to become affiliated with a licensee in a capacity described in Subsection (4)(a)(i).
  - (b) "Associated with the licensee" does not include:
    - (i) service on the following bodies, unless that service includes direct access to a child or a vulnerable adult:
      - (A) a local mental health authority described in Section 17-43-301;
      - (B) a local substance abuse authority described in Section 17-43-201; or
      - (C) a board of an organization operating under a contract to provide mental health or substance use programs, or services for the local mental health authority or substance abuse authority; or
    - (ii) a guest or visitor whose access to a child or a vulnerable adult is directly supervised at all times.
- (5)
  - (a) "Boarding school" means a private school that:
    - (i) uses a regionally accredited education program;
    - (ii) provides a residence to the school's students:
      - (A) for the purpose of enabling the school's students to attend classes at the school; and
      - (B) as an ancillary service to educating the students at the school;
    - (iii) has the primary purpose of providing the school's students with an education, as defined in Subsection (5)(b)(i); and
    - (iv)
      - (A) does not provide the treatment or services described in Subsection (40)(a); or
      - (B) provides the treatment or services described in Subsection (40)(a) on a limited basis, as described in Subsection (5)(b)(ii).
  - (b)
    - (i) For purposes of Subsection (5)(a)(iii), "education" means a course of study for one or more grades from kindergarten through grade 12.
    - (ii) For purposes of Subsection (5)(a)(iv)(B), a private school provides the treatment or services described in Subsection (40)(a) on a limited basis if:
      - (A) the treatment or services described in Subsection (40)(a) are provided only as an incidental service to a student; and
      - (B) the school does not:
        - (I) specifically solicit a student for the purpose of providing the treatment or services described in Subsection (40)(a); or

- (II) have a primary purpose of providing the treatment or services described in Subsection (40)(a).
- (c) "Boarding school" does not include a therapeutic school.
- (6) "Certification" means a less restrictive level of licensure issued by the department.
- (7) "Child" means an individual under 18 years old.
- (8) "Child placing" means receiving, accepting, or providing custody or care for any child, temporarily or permanently, for the purpose of:
  - (a) finding a person to adopt the child;
  - (b) placing the child in a home for adoption; or
  - (c) foster home placement.
- (9) "Child-placing agency" means a person that engages in child placing.
- (10) "Client" means an individual who receives or has received services from a licensee.
- (11)
  - (a) "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.
  - (b) "Congregate care program" does not include a human services program that:
    - (i) is licensed to serve adults; and
    - (ii) is approved by the office to service a child for a limited time.
- (12) "Day treatment" means specialized treatment that is provided to:
  - (a) a client less than 24 hours a day; and
  - (b) four or more persons who:
    - (i) are unrelated to the owner or provider; and
    - (ii) have emotional, psychological, developmental, physical, or behavioral dysfunctions, impairments, or chemical dependencies.
- (13) "Department contractor" means an individual who:
  - (a) provides services under a contract with the department; and
  - (b) due to the contract with the department, has or will likely have direct access to a child or vulnerable adult.
- (14) "Direct access" means that an individual has, or likely will have:
  - (a) contact with or access to a child or vulnerable adult that provides the individual with an opportunity for personal communication or touch; or
  - (b) an opportunity to view medical, financial, or other confidential personal identifying information of the child, the child's parents or legal guardians, or the vulnerable adult.
- (15) "Directly supervised" means that an individual is being supervised under the uninterrupted visual and auditory surveillance of another individual who has a current background check approval issued by the office.
- (16) "Director" means the director of the office.
- (17) "Domestic violence" means the same as that term is defined in Section 77-36-1.
- (18) "Domestic violence treatment program" means a nonresidential program designed to provide psychological treatment and educational services to perpetrators and victims of domestic violence.
- (19) "Elder adult" means a person 65 years old or older.
- (20) "Emergency safety intervention" means a tactic used to protect staff or a client from being physically injured, utilized by an appropriately trained direct care staff and only performed in

accordance with a nationally or regionally recognized curriculum in the least restrictive manner to restore staff or client safety.

- (21) "Foster home" means a residence that is licensed or certified by the office for the full-time substitute care of a child.
- (22) "Health benefit plan" means the same as that term is defined in Section 31A-22-634.
- (23) "Health care provider" means the same as that term is defined in Section 78B-3-403.
- (24) "Health insurer" means the same as that term is defined in Section 31A-22-615.5.
- (25)
  - (a) "Human services program" means:
    - (i) a foster home;
    - (ii) a therapeutic school;
    - (iii) a youth program;
    - (iv) an outdoor youth program;
    - (v) a residential treatment program;
    - (vi) a residential support program;
    - (vii) a resource family home;
    - (viii) a recovery residence; or
    - (ix) a facility or program that provides:
      - (A) adult day care;
      - (B) day treatment;
      - (C) outpatient treatment;
      - (D) domestic violence treatment;
      - (E) child-placing services;
      - (F) social detoxification; or
      - (G) any other human services that are required by contract with the department to be licensed with the department.
  - (b) "Human services program" does not include:
    - (i) a boarding school;
    - (ii) a residential, vocational and life skills program, as defined in Section 13-53-102; or
    - (iii) a short-term relief care provider.
- (26) "Indian child" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (27) "Indian country" means the same as that term is defined in 18 U.S.C. Sec. 1151.
- (28) "Indian tribe" means the same as that term is defined in 25 U.S.C. Sec. 1903.
- (29) "Intermediate secure treatment" means 24-hour specialized residential treatment or care for an individual who:
  - (a) cannot live independently or in a less restrictive environment; and
  - (b) requires, without the individual's consent or control, the use of locked doors to care for the individual.
- (30) "Licensee" means an individual or a human services program licensed by the office.
- (31) "Local government" means a city, town, or county.
- (32) "Minor" means child.
- (33) "Office" means the Office of Licensing within the department.
- (34) "Outdoor youth program" means a program that provides:
  - (a) services to a child that has:
    - (i) a chemical dependency; or
    - (ii) a dysfunction or impairment that is emotional, psychological, developmental, physical, or behavioral;
  - (b) a 24-hour outdoor group living environment; and

- (c)
  - (i) regular therapy, including group, individual, or supportive family therapy; or
  - (ii) informal therapy or similar services, including wilderness therapy, adventure therapy, or outdoor behavioral healthcare.
- (35) "Outpatient treatment" means individual, family, or group therapy or counseling designed to improve and enhance social or psychological functioning for those whose physical and emotional status allows them to continue functioning in their usual living environment.
- (36) "Practice group" or "group practice" means two or more health care providers legally organized as a partnership, professional corporation, or similar association, for which:
  - (a) substantially all of the services of the health care providers who are members of the group are provided through the group and are billed in the name of the group and amounts received are treated as receipts of the group; and
  - (b) the overhead expenses of and the income from the practice are distributed in accordance with methods previously determined by members of the group.
- (37) "Private-placement child" means a child whose parent or guardian enters into a contract with a congregate care program for the child to receive services.
- (38)
  - (a) "Recovery residence" means a home, residence, or facility that meets at least two of the following requirements:
    - (i) provides a supervised living environment for individuals recovering from a substance use disorder;
    - (ii) provides a living environment in which more than half of the individuals in the residence are recovering from a substance use disorder;
    - (iii) provides or arranges for residents to receive services related to the resident's recovery from a substance use disorder, either on or off site;
    - (iv) is held out as a living environment in which individuals recovering from substance abuse disorders live together to encourage continued sobriety; or
  - (v)
    - (A) receives public funding; or
    - (B) is run as a business venture, either for-profit or not-for-profit.
  - (b) "Recovery residence" does not mean:
    - (i) a residential treatment program;
    - (ii) residential support program; or
    - (iii) a home, residence, or facility, in which:
      - (A) residents, by a majority vote of the residents, establish, implement, and enforce policies governing the living environment, including the manner in which applications for residence are approved and the manner in which residents are expelled;
      - (B) residents equitably share rent and housing-related expenses; and
      - (C) a landlord, owner, or operator does not receive compensation, other than fair market rental income, for establishing, implementing, or enforcing policies governing the living environment.
- (39) "Regular business hours" means:
  - (a) the hours during which services of any kind are provided to a client; or
  - (b) the hours during which a client is present at the facility of a licensee.
- (40)
  - (a) "Residential support program" means a program that arranges for or provides the necessities of life as a protective service to individuals or families who have a disability or who are

experiencing a dislocation or emergency that prevents them from providing these services for themselves or their families.

- (b) "Residential support program" includes a program that provides a supervised living environment for individuals with dysfunctions or impairments that are:
    - (i) emotional;
    - (ii) psychological;
    - (iii) developmental; or
    - (iv) behavioral.
  - (c) Treatment is not a necessary component of a residential support program.
  - (d) "Residential support program" does not include:
    - (i) a recovery residence; or
    - (ii) a program that provides residential services that are performed:
      - (A) exclusively under contract with the department and provided to individuals through the Division of Services for People with Disabilities; or
      - (B) in a facility that serves fewer than four individuals.
- (41)
- (a) "Residential treatment" means a 24-hour group living environment for four or more individuals unrelated to the owner or provider that offers room or board and specialized treatment, behavior modification, rehabilitation, discipline, emotional growth, or habilitation services for persons with emotional, psychological, developmental, or behavioral dysfunctions, impairments, or chemical dependencies.
  - (b) "Residential treatment" does not include a:
    - (i) boarding school;
    - (ii) foster home; or
    - (iii) recovery residence.
- (42) "Residential treatment program" means a program or facility that provides:
  - (a) residential treatment; or
  - (b) intermediate secure treatment.
- (43) "Seclusion" means the involuntary confinement of an individual in a room or an area:
  - (a) away from the individual's peers; and
  - (b) in a manner that physically prevents the individual from leaving the room or area.
- (44) "Short-term relief care provider" means an individual who:
  - (a) provides short-term and temporary relief care to a foster parent:
    - (i) for less than six consecutive nights; and
    - (ii) in the short-term relief care provider's home;
  - (b) is an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster parent;
  - (c) is direct access qualified, as that term is defined in Section 26B-2-120;
  - (d) has been approved to provide short-term relief care by the department;
  - (e) is not reimbursed by the department for the temporary relief care provided; and
  - (f) is not an immediate family member or relative, as those terms are defined in Section 80-3-102, of the foster child.
- (45) "Social detoxification" means short-term residential services for persons who are experiencing or have recently experienced drug or alcohol intoxication, that are provided outside of a health care facility licensed under Part 2, Health Care Facility Licensing and Inspection, and that include:
  - (a) room and board for persons who are unrelated to the owner or manager of the facility;
  - (b) specialized rehabilitation to acquire sobriety; and

- (c) aftercare services.
- (46) "Substance abuse disorder" or "substance use disorder" mean the same as "substance use disorder" is defined in Section 26B-5-501.
- (47) "Substance abuse treatment program" or "substance use disorder treatment program" means a program:
  - (a) designed to provide:
    - (i) specialized drug or alcohol treatment;
    - (ii) rehabilitation; or
    - (iii) habilitation services; and
  - (b) that provides the treatment or services described in Subsection (47)(a) to persons with:
    - (i) a diagnosed substance use disorder; or
    - (ii) chemical dependency disorder.
- (48) "Therapeutic school" means a residential group living facility:
  - (a) for four or more individuals that are not related to:
    - (i) the owner of the facility; or
    - (ii) the primary service provider of the facility;
  - (b) that serves students who have a history of failing to function:
    - (i) at home;
    - (ii) in a public school; or
    - (iii) in a nonresidential private school; and
  - (c) that offers:
    - (i) room and board; and
    - (ii) an academic education integrated with:
      - (A) specialized structure and supervision; or
      - (B) services or treatment related to:
        - (I) a disability;
        - (II) emotional development;
        - (III) behavioral development;
        - (IV) familial development; or
        - (V) social development.
- (49) "Unrelated persons" means persons other than parents, legal guardians, grandparents, brothers, sisters, uncles, or aunts.
- (50) "Vulnerable adult" means an elder adult or an adult who has a temporary or permanent mental or physical impairment that substantially affects the person's ability to:
  - (a) provide personal protection;
  - (b) provide necessities such as food, shelter, clothing, or mental or other health care;
  - (c) obtain services necessary for health, safety, or welfare;
  - (d) carry out the activities of daily living;
  - (e) manage the adult's own resources; or
  - (f) comprehend the nature and consequences of remaining in a situation of abuse, neglect, or exploitation.
- (51)
  - (a) "Youth program" means a program designed to provide behavioral, substance use, or mental health services to minors that:
    - (i) serves adjudicated or nonadjudicated youth;
    - (ii) charges a fee for the program's services;
    - (iii) may provide host homes or other arrangements for overnight accommodation of the youth;
    - (iv) may provide all or part of the program's services in the outdoors;

- (v) may limit or censor access to parents or guardians; and
  - (vi) prohibits or restricts a minor's ability to leave the program at any time of the minor's own free will.
  - (b) "Youth program" does not include recreational programs such as Boy Scouts, Girl Scouts, 4-H, and other such organizations.
- (52)
- (a) "Youth transportation company" means any person that transports a child for payment to or from a congregate care program in Utah.
  - (b) "Youth transportation company" does not include:
    - (i) a relative of the child;
    - (ii) a state agency; or
    - (iii) a congregate care program's employee who transports the child from the congregate care program that employs the employee and returns the child to the same congregate care program.

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Amended by Chapter 307, 2024 General Session

Amended by Chapter 438, 2024 General Session