



Understanding Infant Adoption 7

Delaware Adoption Guide for Healthcare Providers & Staff

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Disclaimer: This resource guide is intended for informational purposes only and does not constitute legal advice. It is not a substitute for consultation with hospital legal counsel or a licensed adoption attorney. Adoption laws and procedures vary by jurisdiction and are subject to change. Healthcare providers and staff are strongly encouraged to seek professional legal guidance to ensure compliance with applicable laws and regulations.

Introduction to Adoption

What is Adoption?

Adoption is a legal process in which biological parents (also referred to herein as “placing parents” or “birth parents”) relinquish their parental rights to their child, allowing the child to be placed in the care of adoptive parents. However, adoption is more than just a legal agreement; it is a life-altering experience that reflects a commitment to a child's love, care, and well-being.

Healthcare providers should have a basic understanding of the three main types of adoption to offer informed support for their patients:

- **Private Adoption:** This is a direct arrangement between birth parents and adoptive parents, often through a licensed adoption agency or attorney. In a private adoption, the birth parents have voluntarily relinquished their parental rights to the child, and the child is placed directly into the legal and physical custody of the adoptive parents. Most private adoptions are “open adoptions,” meaning there will be ongoing contact between the birth parents and adoptive parents. Private adoption is the most common type of adoption that healthcare providers encounter when working in mother-baby and neonatal units.
- **Adoption from Foster Care:** This occurs when a child in state foster care is legally available for adoption after a court has terminated the parental rights of the birth parents. Foster care adoptions often involve older children. Every state has laws and regulations governing foster care and adoption, which are

managed by the state's public child welfare agency. If the child is placed for adoption in another state, compliance with the Interstate Compact on the Placement of Children (ICPC) is required.

- **Intercountry Adoption:** The process by which a child born in one country is adopted by a family in another country. The State Department serves as the oversight authority for intercountry adoption in the United States.

For expectant mothers, the adoption journey is filled with complex emotions and culminates in a life-changing decision. The private adoption process allows mothers to create an adoption plan at any point during their pregnancy or after giving birth. In this journey, healthcare providers play a crucial role, providing neutral care and support, facilitating fully informed decision-making, and making ethical referrals to adoption providers. Your role in this process is integral in ensuring the well-being of all patients considering this option.

Important Terminology

The biological parent signs the adoption consent or relinquishment, authorizing the court to terminate her parental rights:

- Before adoption consents are signed, refer to the biological parent as an **“expectant parent”** or **“parent.”**
- A parent making an adoption plan for their child is called a **“placing parent.”**
- After adoption consents are signed, refer to the biological parent as a **“birth parent.”**

Support for Patients Considering Adoption

Expectant parents should have access to a variety of support resources from the moment they begin considering adoption through the completion of the process and beyond. Below is a summary of some of the available services and providers that patients can access to find appropriate support.

Pregnancy Options Counseling

Many non-profit organizations in Delaware offer pregnancy options counseling for expectant mothers. The purpose of this counseling is to help women consider their available options during pregnancy. It is important to note that not all pregnancy centers provide the same services. For instance, some pregnancy resource centers do not offer information or referrals for abortion. However, most centers typically provide services such as pregnancy testing, ultrasounds, maternity clothes, parenting assistance, resource referrals, parenting classes, and counseling. Generally, these organizations do not charge fees unless they also operate a licensed medical clinic on site.

Ethical & Effective Referrals

Empowering patients in their decision-making process is key. When making a referral to an adoption provider, it's important to present at least three options. This allows the patient to understand the range of services available and choose the one that best suits her needs. See the Understanding Infant Adoption curriculum handouts [Questions for Healthcare Practitioners to Ask Adoption Agencies and/or Attorneys](#) and [Questions for Patients to Ask Adoption Agencies and/or Attorneys](#) for suggestions.

Choosing an Adoption Provider

The Internet is full of adoption providers offering help to expectant parents, but not all of these entities have your patients' best interests at heart. It's essential to understand the different types of adoption professionals available:

- **Licensed Adoption Agencies:** Adoption agencies are licensed by the state to provide adoption services to expectant/birth parents and adoptive families. These services can include social work, home studies, adoption education, pregnancy counseling, adoption matching, and post-placement care. Agencies work

to ensure that social and emotional challenges are addressed through social work and counseling, while also ensuring compliance with adoption rules and regulations.

- **Licensed Adoption Attorneys:** Attorneys play a vital role in the adoption process. Ideally, the adoptive parents should have their own attorney, and the expectant or birth parents should be represented by a separate attorney. This ensures that everyone's rights are protected and that there are no conflicts of interest. Attorneys in Delaware are licensed by the Delaware State Bar Association.
- **Unlicensed Adoption Intermediaries:** Some adoption providers are not licensed to offer adoption services. Unlicensed adoption intermediaries are also referred to as “advertisers,” “matchmakers,” “brokers,” or “marketers.” They solicit expectant and adoptive parents for their services through online ads and other marketing tactics and collect substantial matching fees from hopeful adoptive parents. Working with an unlicensed adoption provider can complicate the process for expectant mothers trying to find suitable adoptive parents for their children and can prevent them from getting adequate support and guidance. It is very appropriate to ask an agency to see a copy of their state-issued child-placing agency license.

More than half of the states in the U.S. have laws prohibiting the use of unlicensed adoption intermediaries, but such laws are frequently overlooked. Only licensed child placement agencies or the Department of Services for Children, Youth and Families may place a child for adoption. See [Delaware Adoption Laws](#), below, for further information.

- **Out-of-State Adoption Providers:** With the increasing use of the Internet in the adoption process, patients may choose to work with adoption providers located outside of Delaware. It's crucial to ensure these out-of-state providers are licensed to provide adoption services and that they work cooperatively with a Delaware-licensed adoption agency and attorney to ensure that the placing parents receive local support before, during, and after adoption. This not only ensures legal compliance but also the safety and well-being of the patient and the child.

Choosing Prospective Adoptive Parents

The process of selecting adoptive parents requires careful consideration. Expectant parents often have a specific vision of the type of family they wish to find for their child. A Delaware-licensed child-placing agency or attorney can assist expectant parents in identifying potential adoptive families that align with their desired characteristics. Once the expectant parent has reviewed profiles of suitable prospective adoptive parents, she should have the opportunity to meet with them in person whenever possible before making a final decision.

Expectant parents should create a list of questions to ask prospective adoptive parents to ensure they find the right family for their child. However, compiling this list can be overwhelming. See the handout [Questions for Patients to Ask Adoption Agencies and/or Attorneys](#) for suggestions.

Support After Adoption

Birth parents often experience grief and a range of intense emotional and psychological effects after placing a child for adoption. It is important to provide them with mental health support during this time. Support following adoption can take various forms, including individual counseling, group therapy, and support groups.

Delaware Adoption Laws

Adoption is a complex legal process. Violating state laws can jeopardize the safety of all parties involved, as well as the child's permanency. Below are frequently asked questions regarding Delaware's adoption laws.

Does Delaware allow independent (non-agency) adoptions?

Yes. Delaware does allow independent (non-agency) adoptions, often referred to as "private" or "independent" adoptions. In these cases, the adoption is arranged directly between the birth parents and the adoptive parents, typically with the assistance of an attorney rather than a licensed adoption agency.

Does Delaware allow unlicensed adoption facilitators?

No. Delaware does not permit unlicensed adoption facilitators. Only licensed child placement agencies or the Department of Services for Children, Youth and their Families may place a child for adoption. [Del. Code. Ann., tit. 13 §§ 901, 904, 906, 928 \(2024\)](#)

Does Delaware require that placing parents have separate legal representation?

No. The laws in Delaware do not address this issue.

Are adoptive parents allowed to pay an expectant mother's living expenses?

According to statute, adoptive parents may not pay the expectant mother's living expenses. [Del. Code. Ann. tit. 13, § 928 \(2024\)](#)

However, case law provides that adopting parents can pay expenses through the agency as part of its service fee, including the reasonable medical, legal, rent, food, transportation, laundry, and utilities expenses for placing parents and the child.

When can the placing parents sign the adoption consent or relinquishment?

Consent may be given after the birth of the child and the consent shall be in writing, notarized and attached to the petition as an exhibit. [Del. Code. Ann. tit. 13, §§ 907, 1106\(c\) \(2024\)](#)

Can birth parents who have consented to an adoption change their mind and revoke their consent?

Yes. In order to revoke consent, the birth parent must file a petition to revoke their consent within sixty days from the date the adoption petition is filed. [Del. Code. Ann. tit. 13, § 909 \(2024\)](#)

For information on birth fathers' right to revoke their consent, please see below guidance regarding birth fathers.

Are post-adoption contact agreements legally binding in Delaware?

No. [Del. Code Ann. Tit. 13, § 929 \(2024\)](#)

What legal rights do birth fathers have in a Delaware adoption?

In all states, including Delaware, birth fathers' legal rights in adoption depend on various factors, such as their legal relationship with the child's mother and their actions before and after being notified of the adoption proceedings. Birth fathers who wish to understand and enforce their legal rights should consult with a Delaware adoption attorney for guidance.

What to do when you suspect a violation in your hospital?

If you witness violations of Delaware law in your hospital or healthcare clinic, you should immediately file a report. Where you file the report will depend on the type of entity or individual who has committed the offense. If you are witnessing repeated offenses, alert your healthcare administration office.

Type of Entity	Where to Report	Contact Information
Licensed Adoption Agency	Office of Child Care Licensing (OCCL), Department of Education	https://education.delaware.gov/families/birth-age-5/occl/occl-forms/make_a_complaint_online occl.doe@doe.k12.de.us
Licensed Attorney	Office of Disciplinary Counsel (ODC), which is the arm of the Delaware Supreme Court responsible for attorney discipline	https://courts.delaware.gov/odc/complaint.aspx If you are unable to file the Complaint Form electronically, you may print a hard copy and submit it by mail: 500 N King St; Wilmington, DE 19801
Unlicensed Adoption Facilitator Unlicensed Adoption Advertising	Delaware Division of Professional Regulation	https://dpr.delaware.gov/boards/investigativeunit/filecomplaint/ (302) 744-4500; Investigations.dpr@delaware.gov

Child Protection in Delaware

Child Protective Services Referrals

Any person, agency, organization, or entity that knows or in good faith suspects child abuse or neglect shall make a report. [Del. Code Ann. Tit. 16, § 903 \(2024\)](#)

Child Abuse, Neglect, and Exploitation Definitions under Delaware Law

Under Delaware law regarding child abuse, a child is any person under the age of 18. [Del. Code Ann. Tit. 11, § 1100 \(2024\)](#)

- **'Abuse' or 'abused child'** means that a person has care, custody, or control of a child and causes or inflicts any of the following:
 - Physical injury through unjustified force
 - Emotional abuse
 - Torture
 - Exploitation
 - Maltreatment or mistreatment
- [Del. Code Ann. 16, § 902; Tit. 10, § 901; Tit. 11, § 1100 \(2024\)](#)
- **'Neglect' or 'neglected child'** means that a person who is responsible for the care, custody, and/or control of the child and has the ability and financial means to provide for the care of the child does any of the following:
 - Fails to provide necessary care with regard to food, clothing, shelter, education, health, medical, or other care necessary for the child's emotional, physical, or mental health, or safety and general well-being

- Abuses alcohol or a controlled substance chronically and severely, is not active in treatment for such abuse, and the abuse threatens the child's ability to receive care necessary for that child's safety and general well-being
- Fails to provide necessary supervision appropriate for a child when the child is unable to care for their own basic needs or safety, after considering such factors as the child's age, mental ability, physical condition, the length of the caregiver's absence, and the context of the child's environment

Del. Code Ann. 16, § 902; Tit. 10, § 901

Delaware Contact Information

If you suspect child abuse or neglect, contact the Delaware Department of Child and Family Services:

- **Online Portal:** <https://kids.delaware.gov/family-services/child-abuse-and-neglect-reporting/>
- **Toll-Free:** (800) 292-9582

Non-emergency reports by mandated reporters can be handled through the Delaware Division of Family Services Reporter Portal: <https://dscyfkids.my.site.com/ReporterPortal/s/>

Safe Haven/Safe Surrender Laws and Process

Safe Haven/Safe Surrender laws are designed to prevent the abandonment and endangerment of infants by providing a safe and legal way for parents to relinquish unharmed newborns. These laws allow parents to safely surrender their infant directly to a designated provider, while generally protecting them from criminal liability and prosecution. Additionally, these laws ensure that the relinquishing parent can remain anonymous. It is important to note that Safe Haven/Safe Surrender laws are intended for use in extreme circumstances and are not a substitute for the resources provided in the public child welfare system or private adoption processes.

- **For Immediate Assistance:** Call or text the 24/7 Safe Haven Crisis Helpline at 1-888-510-BABY (2229)

In Delaware, this program is referred to as **Safe Arms for Babies:**

<https://dhss.delaware.gov/dph/chca/dphahsab01>

What are the age restrictions for a Safe Haven/Safe Surrender relinquishment in Delaware?

A child who is 14 days old or younger may be relinquished. *Del. Code Ann. Tit. 16, §§ 902 and 907A (2024)*

Who can relinquish the infant under Safe Haven/Safe Surrender laws?

A person may voluntarily surrender a baby. *Del. Code Ann. Tit. 16, § 907A (2024)*

Who are the designated Safe Haven/Safe Surrender providers?

A baby may be surrendered directly to an employee or volunteer of the emergency department of a Delaware hospital inside of the emergency department provided that said baby is surrendered alive, unharmed, and in a safe place therein. *Del. Code Ann. Tit. 16, § 907A (2024)*

Note: Per the state government's Safe Arms for Babies website, *local* police stations, but not *state* police stations, are also providers. (<https://dhss.delaware.gov/dph/chca/dphahsab01/>)

Putative Father Registry

A putative father is a person who claims to be the father of a child and wants to establish paternity. The purpose of a registry is to allow an unmarried father of a born or unborn child to register his name so he will be

notified before the child is placed for adoption. The father does not have to be listed on the birth certificate to register.

The Delaware Registry of Paternity is responsible for maintaining the Registry.

- **Phone:** (302) 577-7171
- **Address:** Delaware Office of Vital Statistics; 417 Federal St; Dover, DE 19901.

Parties who wish to run a search of the registry should, after the passage of 30 days from birth, file a form entitled "Request to Search Registry of Paternity" with Delaware Vital Statistics located at 417 Federal St; Dover, DE 19901. The cost for a party requesting the search is \$25. Questions should be directed to Vital Statistics at (302) 744-4549.

[Del. Code Ann. Tit. 13, §8-401](#)

Those seeking to establish parentage may learn more about options and procedures at <https://dhss.delaware.gov/dcss/estpat/>

Delaware Adoption Service Providers

Licensed Private Adoption Agencies

In Delaware, adoption agencies are licensed by the state Office of Child Care Licensing (OCCL), within the Department of Education. The following licensed agencies focus on domestic infant adoption with counseling and/or services available for expectant parents. A full listing of private and public child placing agencies licensed in Delaware is available online at <https://kidsfiles.delaware.gov/pdfs/fs-de-agencies-licensed-for-adoption-services.pdf>. Some agencies are licensed in multiple states.

Contact ascc@adoptioncouncil.org with any additions, corrections, or updates.

- **Adoptions from the Heart**
18A Trolley Sq
Wilmington, DE 19806
Phone: (302) 658-8883
Fax: (302) 658-8873
Contact Form: <https://afth.org/request-information-landing/>
<https://afth.org/>
- **Children & Families First**
555 Justison St
Wilmington, DE 19801
Phone: (302) 658-5177
info@cffde.org
<https://www.cffde.org/>
- **Gladney Center for Adoption**
1102 Society Dr
Claymont, DE 19703
Phone: (302) 508-4297
Contact Form: <https://adoptionsbygladney.com/contact>
<https://adoptionsbygladney.com/>

- **Open Arms Adoption Network**

JFS of Delaware
99 Passmore Rd
Wilmington, DE 19803
Phone: (267) 256-2229
Fax: (267) 256-2230
<https://openarmsadoption.net/>

Licensed Adoption Attorneys

This listing reflects the current Delaware licensed fellows of the [Academy of Adoption & Assisted Reproduction Attorneys](#). This list may not be representative of all attorneys in the state working in the field of adoption law. Some attorneys hold licensure in more than one state.

Contact ascc@adoptioncouncil.org with any additions, corrections, or updates.

- **Deborah Spivack**

300 Delaware Ave Ste 210
Wilmington, DE 19801
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<https://www.familybuildinglaw.net/>

Resources

- [Academy of Adoption & Assisted Reproduction Attorneys](#)
- [AdoptChange](#)
- [Child Welfare Information Gateway: State, Territory, and Tribal Resources](#)
- [The Delaware Code Online](#)
- [Delaware Department of Services for Children, Youth & Their Families](#)
- [Office of Disciplinary Counsel, Delaware Supreme Court](#)

About the Adoption-Sensitive Clinical Care Project

It is critical that expectant parents who may wish to place a child for adoption have access to appropriately trained staff and comprehensive supports throughout the adoption process. The federally-funded Adoption-Sensitive Clinical Care Project and the Understanding Infant Adoption curriculum are being administered by [National Council For Adoption \(NCFA\)](#), [The Adoption & Foster Care Clinic](#), [Spaulding for Children](#), and [University of Washington School of Social Work](#) for the project period 2024-2026.

The project is supported by the Administration for Children and Families (ACF) of the United States (U.S.) Department of Health and Human Services (HHS) as part of a financial assistance award (award #90CO1147-01-00) totaling \$1,000,000 with 100 percent funded by ACF/HHS. The contents are those of the author(s) and do not necessarily represent the official views of, nor an endorsement, by ACF/HHS, or the U.S. Government. For more information, please visit the ACF website, [Administrative and National Policy Requirements](#). This information is in the public domain.

