

IT SHOULD BE THE LAW: Licensing, Regulating & Monitoring of Privately Operated Residential Treatment Facilities for At-Risk Youth

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ABA February 2007 Policy Resolution

- ☞ Calls for laws that mandate licensing, regulating, and monitoring of *all* completely privately funded *residential* facilities that offer treatment for under 18 youth with emotional, behavioral, educational, substance abuse, and social issues or problems, including "strenuous athletic, mental health and tough love programs."

- ☞ Law should clearly define what programs are covered and set minimum legal requirements for their operation, including standards for staff qualifications and meeting resident physical and emotional safety, educational, mental health, and other treatment needs
- ☞ Law should require government monitoring and enforcement of these standards

- ☞ Law should promote *preference* for use of in-home and community-based services to help avoid such placements, with enhanced government support so more families can access them
- ☞ Congress should enact law that helps assure safety of American children placed in U.S.-owned but foreign-based unregulated private residential treatment facilities, by U.S. work with foreign governments in regularly monitoring them

Other ABA Policies Promote More Services to Troubled Youth and their Families

- February 2007:
Governments should make more services (especially community mental health and evidence-based programs) available to families of at-risk youth without the necessity of entering child welfare, juvenile justice, or court systems; These services/programs should use a positive youth development perspective

- August 2007:
Status offenders (out of parental control youth, runaways, chronic truants) should be diverted from juvenile court through federal law/policy promoting...
 - a) Evidence-based early intervention and treatment programs, including those that are gender-responsive, that governments should be mandated to create
 - b) Exhaustion of voluntary help before pursuing residential placements
 - c) Creation of first-response social service mechanisms to parent-youth crisis

10 Suggested Elements of State and Federal Law Reform

- Should assure that investigation and monitoring authority includes compliance with laws and policies on resident physical and emotional safety, educational services, mental health resources, and how other treatment needs are addressed
- Should enhance child abuse statutes to better support inspections of residential care facilities

- Should clearly define scope of covered residential facilities & programs; That should include religiously-affiliated programs, boarding schools, substance abuse programs, and outdoor & wilderness programs/camps that include as a main feature a therapeutic intervention program for at-risk youth
- Should include deprivation of adequate food, clothing, shelter, or medical care as acts constituting abuse or neglect within the facility

- Should make it clear that regulators & monitors can and will access professional credentials of all program therapists, counselors, and supervisors, and that criminal record checks and child maltreatment registry checks be completed on them
- Should set, within regulations, specific rules for use of behavior management, seclusion & restraint, and responses to allegations of abuse/neglect

- Should be some regulation of individuals & programs that escort and transport youth to privately operated residential facilities
- Should provide for independent, specialized oversight of facilities by a government Board or Commission
- Should promote, to help avoid residential (and especially out-of-state residential) placements, greater parental access and use of in-home & community-based programs, by enhancing government support of them

- Should provide, through federal law, a mechanism to help assure that foreign governments, where their residential treatment facilities are serving U.S. citizen children, cooperate with the U.S. Justice and State Departments in providing periodic monitoring, oversight, and enforcement of standards of care for children and youth in those facilities

- **ABA Policy and Background Report:**
<http://www.blackwell-synergy.com/doi/pdf/10.1111/j.1744-1617.2007.00156.x>
- **Protecting Youth Placed In Unlicensed, Unregulated Residential "Treatment" Facilities**, by Lenore Behar, Robert Friedman, Allison Pinto, Judith Katz-Leavy, and Hon. William G. Jones (in Family Law Review, July 2007)
<http://www.blackwell-synergy.com/doi/pdf/10.1111/j.1744-1617.2007.00155.x>
- **Residential Treatment Programs: Concerns Regarding Abuse & Death in Certain Programs for Troubled Youth**
GAO-08-146T
www.gao.gov/new.items/d08146t.pdf