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Adoption Consents: Legal Incentives for Best Practices

Elizabeth J. Samuels, JD

The Uniform Adoption Act sets out commonly accepted goals of state adoption laws. Among them are the goals of protecting “minor children against unnecessary separation from their birth parents” and of ensuring “that a decision by a birth parent to relinquish a minor child and consent to the child’s adoption is informed and voluntary.”¹ Yet, as a Texas judge writing in a contested adoption case observed, his state’s not atypical law provided more safeguards for sophisticated purchasers of consumer products than it did for young mothers relinquishing their newborn infants: “Even as the senior justice on this court . . . , I am allowed three days to cancel a contract to purchase consumer goods signed at my home—a document that is far less important than and a setting that is far more comfortable than a hospital.”²

State adoption laws governing domestic infant adoption should, at a minimum, encourage and provide incentives for all adoption service

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providers to engage in what are considered "best practices" for these children, their parents, and their prospective adoptive parents. That many state laws fail to do so is suggested by what one court has referred to as "the multitude of cases in which a natural parent seeks to regain her child."³ In the reports of cases involving mothers' attempts to revoke their consents to the adoption of their newborn infants, attempts which are almost always unsuccessful, one can usually discern a lack of the skilled and unbiased counseling that would have provided these mothers with sufficient information and support to make deliberate and final decisions.⁴ Even more starkly, the cases highlight the very short periods of time following the child's birth after which these mothers' consent may be given and may become irrevocable. Their consents, typically, were signed within hours or within a day or two of the birth, and were just as quickly regretted.

In one recent case, for example, the mother throughout her pregnancy considered but did not decide upon placing her child for adoption. The day after the birth, she was still undecided. The following day, when she was to be released from the hospital and when the agency with which she had consulted was going to close for the weekend, she authorized the agency counselor to come to the hospital. The counselor discussed the mother's situation with her and presented her with the paperwork, and that evening the adoptive parents left the hospital with the child. In court, the counselor testified that the mother understood her relinquishment was irrevocable. The mother testified that she had been weak and tired from not having slept for 24 hours, that she had been affected by Percocet, the narcotic she was taking for pain, and that she did not recall whether she was told the consent was irrevocable. At home the next day, she decided she had made a mistake and, according to her testimony, called but was unable to reach the agency. That evening she called the prospective adoptive parents to say she had made a mistake and did not want to place the child for adoption. Approximately 10 days later, a representative of the agency signed the relinquishment document, giving the agency the power to consent to the adoption. The mother unsuccessfully sought to set aside her relinquishment in her state's courts and in a petition for certiorari to the U.S. Supreme Court.⁵

The state laws that govern consents by mothers of newborn infants apply to a variety of adoption services providers—public agencies, non-profit, and for-profit private agencies, lawyers, physicians, and other "facilitators," "a new breed of adoption entrepreneurs who specialize in finding pregnant women for prospective parents." Public agencies, however, principally arrange adoptions of older children and children

with special needs,⁶ while most adoptions of domestic newborns are handled by private agencies and by independent, non-agency intermediaries.⁷ Since 1970, according to historian Barbara Melosh, even private agency adoptions have “declined sharply, in what amounts to a massive de facto deregulation of child placement.”⁸ As Melosh summarizes the situation, “[A]fter 1970, most placements have been made as private agreements executed between consenting adults, with minimal involvement from the state.”⁹ With the Internet as “the main catalyst,” there has been a “huge increase” in the number of adoptions in which generally white couples and birth parents identify one another.¹⁰ Reliable statistics are not available on the relative number of private agency versus independent, non-agency adoptions,¹¹ but both these types of providers are subject to limited regulation and operate under a largely “laissez faire” regime.¹²

The “market” in which domestic infant adoptions are arranged is characterized by high fees, demand for children that outstrips available supply, and marketing aimed both at prospective adopters and at pregnant women who might consider placing their infants for adoption. In contrast to the cost of public agency adoptions, which range from zero to \$2,500; the cost of a domestic private agency adoption ranges from \$4,000 to more than \$30,000; and the cost of a domestic independent adoption ranges from \$8,000 to more than \$30,000, or reportedly to as much as \$50,000.¹³ Families that adopt infants tend to have higher incomes than those that adopt older children and children with special needs.¹⁴ Tax benefits often flow disproportionately to families who adopt infants domestically and children from other countries, although the benefits have been promoted as a means of increasing the number of adoptions of children out of foster care.¹⁵ Some adoption professionals and observers argue that all adoptions should be arranged, as they are in some other countries, only as a social service by public child welfare agencies or highly regulated nonprofit agencies.¹⁶ In the United States, only three states limit the placement of children with unrelated adoptive parents to licensed agencies,¹⁷ and even in those states parties can arrange what are in effect independent adoptions by identifying one another and then using an agency to handle the arrangements.¹⁸

The best practices that characterize ethical and humane infant adoption services for the mothers of newborn infants, practices that should be promoted by state adoption laws, include making skilled, unbiased counseling available to expectant and new mothers.¹⁹ Skilled counseling, as the Child Welfare League of America (CWLA) explains, helps provide assurance that “[i]nformed decisions will be made.” Counseling

for prospective birth parents, as explained in a comprehensive guide to adoption practices, can help parents to "own" their decisions,²⁰ that is, can help them feel "in control through having a real choice."²¹ Having felt as if they had a real choice is a factor associated with "positive resolutions" for birth mothers, as is having an opportunity to talk, to reflect, and "to anticipate future pain."²²

Counseling for mothers should include providing information about alternatives to adoption, options within adoption, and legal steps and consequences involved in adoption. Information should be provided both orally and in writing. As social worker Patricia Roles puts it in a guide for counselors published by the CWLA, "[o]nly with all the facts can anyone make a well-thought-out, informed decision. Supplying written information is most useful because it allows the client to read and digest the material when she feels ready."²³ Information provided orally may be insufficient because the recipient may be "in a state of shock or denial and unable to retain all the information."²⁴ Initially, information should be available to pregnant women and new mothers about what alternatives to adoption are available for the care of their children, how to determine the support needed if they rear their children, and how to access the resources they would need.²⁵ With respect to adoption, they should have information about and understand available options, including possible degrees of openness.²⁶ Mothers should also receive accurate and clear information about the legal steps involved and their consequences.²⁷

In addition, mothers should be given information about the ways that placing a child for adoption may affect the mothers themselves and the child in both the short and long term. The CWLA standards advise that "[i]n all instances, birth parents and other family members should receive counseling to help them understand the grief and loss" that they may experience.²⁸ While studies are limited, those that have been conducted "suggest that relinquishment is a very stressful event and that many mothers are haunted by it for years later."²⁹ The studies constitute "a growing body of recent research data which have supported the claims of birth parents that relinquishing a child is indeed a profound loss experience, and that this loss even can have long-term deleterious results."³⁰ With respect to the effects of adoption on the child, as adoption social worker James L. Gritter writes, "[A]dvantages [of adoption for the child] are accompanied by significant losses . . . A pregnant woman considering adoption for her child needs to consider the ratio of losses and gains posed by the adoption choice."³¹ For the adopted person as well as for the birth and adoptive parents, adoption is now

thought to be “a lifelong process.”³² Psychologist and researcher David M. Brodzinsky concludes that while “most adopted children appear to cope quite well with the challenges, conflicts, and demands of adoptive family life,” a review of the limited research available suggests that “adopted children are at an increased risk for psychological and academic problems in comparison to their non-adopted counterparts.”³³ Adopted children are thought to face some unique developmental challenges. Unlike children raised by their birth parents, “those adopted have to accomplish or be aided to accomplish a number of additional psychological tasks, which most of them do successfully.”³⁴

Ultimately, of course, the counselor’s job is to help the mother make a difficult decision that often involves “ambivalence and denial.”³⁵ For mothers, as Gritter observes, “Seldom is adoption selected as a true preference—it almost always involves a pronounced element of necessity. The idea of adoption . . . only emerges as a possible outcome when something is seriously askew.”³⁶ Statistics support the observation that adoption is not a “preferred” option for unmarried pregnant women. Between 1989 and 1995, the percentage of unmarried white women placing children for adoption was approximately 1.7%, and the percentage for African-American women was even smaller.³⁷

Even when counseling is available, there is an inherent troubling potential for imposition of biases and conflicts of interest. Social workers have a fundamental responsibility to facilitate their clients’ self-determination, expand choice and opportunity for all people,³⁸ and, when necessary, “take reasonable steps to ensure” that their employers’ practices are consistent with the National Association of Social Workers code of ethics.³⁹ Complicating an adoption counselor’s task is the fact that in a crisis, the counselor has the potential to exercise “immense power.”⁴⁰ “There are times, especially when frustration runs high, when the decision-maker would love to have some powerful, decisive person come along and take the decision out of her hands.”⁴¹ As Roles points out in her guide for counselors, if a “young woman must make her own decision because she has to live with it for the rest of her life,” then the ideal counselor is “a neutral, unbiased [one] who has no vested interest in the outcomes of her decision.”⁴² She continues, “If a client feels pressured toward any particular choices, a power struggle will result where the client will be forced to defend her position, rather than consider all the options.”⁴³

Counselors, agency officials, and intermediaries, of course, may have strong biases based on their own philosophical, religious, or social views. They may favor family preservation, regardless of the circumstances, or

they may believe adoption is invariably the best option when a mother is unmarried or has limited economic and social support. Another factor that can affect the neutrality of counseling is the conflict that arises from one entity's providing services to birth parents and adoptive parents simultaneously. It is natural for service providers to attend to the clients who are paying for the services—the prospective adoptive parents,⁴⁴ and it is easier for many providers to sympathize with the adoptive parents, who are usually more established in life and may have struggled to conceive a child. The support and advocacy group Concerned United Birthparents advises pregnant women and new mothers not to expect that an agency or a pregnancy counselor “will have only your best interest in mind. They do not, and they cannot. Adoption agencies, like it or not, have to make money to operate. The paying client is the adoptive parent, so services are usually geared toward them.”⁴⁵

With respect to best practices and the timing of mothers' consent to the adoption of their newborn infants, there is nearly universal agreement that an expectant mother should not consent to adoption before the birth because she cannot be sure of what her feelings will be after the child is born.⁴⁶ Reportedly, some one half of the women who believe they have settled on adoption change their minds after the birth.⁴⁷ The Wyoming Supreme Court noted that “[e]xperience has evidenced a host of cases in which a mother plans to give her unborn child to adoptive parents, only to change her mind after going through child birth and the resulting mother-child attachment.”⁴⁸ The guide for counselors published by the CWLA advises counselors to make sure birth parents understand that they are the child's legal parents. “This means that they can see, hold, feed, or care for their baby. The level of contact is up to them. Many young people feel intimidated by those in authority and might not realize that they have these choices.”⁴⁹

Author Adam Pertman, now executive director of the Evan B. Donaldson Adoption Institute, reports that “[b]irth mothers typically want to spend time with their babies, and virtually all mental-health and social-work professionals advise them to do so. Some just hold their children for a few minutes, while others need days or weeks.”⁵⁰ The birth parents' organization CUB contends that women who sign irrevocable consents in the hospital shortly after birth are “rushed into signing without a chance to process all of the information.”⁵¹ CUB categorically advises women, “[N]ever sign papers in the hospital . . . Adoption is a serious matter, one that should be finalized only in a courtroom or a legal environment, not a recovery bed.”⁵² Infants, of course, can be placed in the custody of their prospective adoptive parents as soon as the parties

feel confident that the birth parents are unlikely to change their minds. For example, a number of agencies in Scotland place newborns directly from the hospital even though the mother has six weeks to change her mind, "provided the mother's decision about the future of her baby seem[s] final."⁵³

Laws in slightly more than half the states address the issue of counseling services for mothers considering placing their newborn infants for adoption, and all state laws regulate the timing of these mothers' consents. With respect to counseling, 10 states require counseling for birth parents in some or in all adoptions. Some of those states specify requisite amounts of counseling and some specify the timing of the counseling. Twenty states have statutory requirements that birth parents in some or all types of adoptions be made aware of the fact that counseling is available, with two states specifying counseling by a licensed adoption agency. Only a handful of these states specify how much counseling should be offered or mandate the counselor's qualifications or affiliations.⁵⁴

With respect to the timing of consents, the state laws that currently govern mothers' consents to the adoption of their newborn infants vary widely but fall into a few basic types. As a general rule, consents may be set aside in all jurisdictions for fraud, duress, or undue influence, usually for limited periods of time after consent has been given or after the adoption has been granted. In the absence of such wrongdoing, which is difficult to establish,⁵⁵ mothers in many states are afforded a limited opportunity to revoke their consent. The state laws governing consent follow a number of different patterns. Under a few states' laws, mothers may sign consents before the birth but then have a brief period of time after the birth to revoke them. Under some state laws, consents may be signed any time after the birth and are then revocable for a specified period. Under other state laws, consents may not be signed until a specified number of hours or days after birth and are then revocable for a specified period. A different group of state laws provides that irrevocable consents may be signed at any time after birth. Other state laws provide that irrevocable consents may be signed after a specified number of hours or days following birth.⁵⁶ In contrast to the laws in many other countries, including a majority of European countries and Australian states in which consent may not be given or does not become final for a period of approximately six weeks,⁵⁷ in approximately half the U.S. states the mother's irrevocable consent can be established in as short a period as less than four days after birth; in approximately 10% of the states, it can be established in less than seven days after birth; and in

approximately 15% of the states, it can be established in less than two weeks after birth.⁵⁸

Given that the availability of counseling is an essential aspect of best practices, there is at least potential utility in requirements that a number of counseling sessions be available, that the sessions be with a licensed social worker or therapist, and that the sessions be available both well in advance of giving consent and after consent has been given. But, as suggested earlier, first, it is very difficult to ensure that counseling will be skilled and unbiased and, second, there are risks of conflicts of interest when the counseling is offered or arranged by the agency or individual handling the adoption, as well as when it is offered by other providers but nevertheless paid for by the prospective adoptive parents. California attempts to minimize, but does not eliminate, this risk by requiring that prospective birth parents in independent adoptions be advised of their rights and offered three separate counseling sessions by an "adoption service provider," defined as a licensed agency or a licensed clinical social worker with five years of relevant experience. The counselor who advises the birth parents must not have any "contractual relationship with the adoptive parents, an attorney for the adoptive parents, or any other individual or . . . organization performing any type of services for the adoptive parents and for which the adoptive parents are paying a fee, except as relates" to the fee for the counseling.⁵⁹ When a state attempts to regulate counselors' qualifications, services, and affiliations in this way, or itself provides counseling services, the state imposes or incurs substantial costs, a fact that helps explain why other states have not adopted such measures and why they are unlikely to do so. Similarly, increased costs and potential delays make it unlikely many states will consider joining the 10 states that require another means of ensuring decisions are made freely and voluntarily. These states require that the mothers in some or all independent adoptions appear in court to relinquish parental rights or give their consent, a procedure recommended as a key, if imperfect, safeguard by adoption law scholar Joan Heifetz Hollinger,⁶⁰ and a procedure the efficacy of which suggested by a relative paucity of reported disputes in which the procedure was employed.

With respect to the laws governing the timing of consents as well as the provision of counseling, it is possible to create powerful incentives for adoption service providers to follow best practices. As state laws provide in the very different context of consumer contracts, laws can provide effective information requirements and consent timing rules. At very low cost, states can, and some states do, require that specific information be provided at specified times, orally and in specific written

formats, and that provision and receipt of the information be confirmed in writing. For example, Vermont has enacted the Uniform Adoption Act (1994) which requires, among other things, that (1) a parent "shall have been informed of the meaning and consequences of adoption" and "the availability of personal and legal counseling"; (2) the person before whom the consent or relinquishment is executed must certify both that he or she orally explained the contents and consequences of executing the document and that the person signing the consent read or was read the document and was offered a copy; and (3) the consent contain "specific instructions as to how to revoke the consent or relinquishment."⁶¹

Even more effective than information requirements, and equally practicable, are rules that prohibit giving hasty irrevocable consents. Such rules require no or only modest expenditures. In the period after birth and before consent is final, an infant may be cared for by the mother, the father, or both parents, either independently or with assistance, or by foster parents. While foster care before placement is disfavored compared with care by the baby's mother,⁶² no research or historical experience suggests that a period of a few days to a few weeks in foster care adversely affects newborn babies who, then, return to their birth families or move into secure adoptive placements. In domestic adoptions in the past, many children were kept in care for six to nine months before placement in an effort to insure their physical and mental fitness.⁶³ In any event, such speedy consents are not necessary for early placements into adoptive homes. As discussed earlier, if a child's parents and the prospective adoptive parents are confident that the parents' decisions are final, and if they all wish for an early placement, the child's parents can place the child in the adoptive home before consent has been given or becomes final.⁶⁴ Speedy consents are also unnecessary to ensure suitable adoptive placements for children, given the great demand for healthy newborns.

Prohibiting hasty consents creates incentives for service providers to follow best practices in adoption. When a mother who has tentatively agreed to adoption subsequently decides not to place her child, service providers and prospective adoptive parents face potentially great costs, financial and emotional. The chance the mother will change her mind is greatest if she has been inadequately counseled or improperly pressured but then is afforded adequate time to consider and to reconsider her decision. Therefore, if hasty consents are not permitted, all adoption services providers and prospective adoptive parents have a powerful incentive to follow best practices from the outset. In other words, prohibiting hasty consents promotes best practices among those who might be tempted to

disregard them—whether for philosophical, religious, emotional, or financial reasons—in order to meet the compelling desires of prospective adoptive parents.

The most advantageous laws provide both a period of time after birth before which consent may be given and a subsequent period of time for revocation. Mothers who feel they have sufficiently deliberated and firmly decided on adoption may give their legal consent not long after birth and then choose to neither entertain nor exercise their right to revoke. They may “walk away,” knowing that the adoption will be completed without further participation on their part. For mothers in less favorable circumstances, the revocation period offers an opportunity for reflection as they recover from giving birth and begin to experience the effects that the decision will have on themselves and their families. To determine the optimal periods of time, there is no magic formula that perfectly balances the need for deliberate decisions with the need to establish children in their permanent homes. If the period before a mother may consent is three to seven days, most mothers will be out of the hospital, free of the strongest effects of medication, and probably more sensible of their right not to place their children despite any tentative arrangements made before birth. If the subsequent, unqualified revocation period is approximately three weeks, the total period of approximately four weeks will still be shorter than in many other countries and shorter than the postpartum period of six to eight weeks between birth and the time when the mother’s body has returned as closely as possible to its pre-pregnant state.⁶⁵ It may, nevertheless, be long enough for most mothers to recover from the effects of childbirth and long enough for counteracting to some extent any lack of adequate information or supportive counseling.

Infant adoptions are momentous, life-altering events, not only for the child and both sets of parents, but also for the extended families. We cannot predict how a child’s personality, interests, and talents will mesh with those of either the child’s birth or adoptive parents and siblings, or how a child will respond to having been placed for adoption. We cannot know what opportunities a family will enjoy and what challenges it will face. When a state places its legal imprimatur on the unmaking of one family and the making of another, the state should at least insure to the greatest extent possible that all the individuals involved have followed or have been afforded the best practices that ethics and humanity demand. For mothers considering placing their children for adoption, skilled, unbiased counseling is invaluable; complete, well-communicated information is indispensable; and time is, perhaps, “the wisest counselor of all.”⁶⁶

NOTES

1. Unif. Adoption Act, Prefatory Note, 9 U.L.A. 14 (1994).
2. *In re Baby Girl Bruno*, 974 S.W.2d 401, 406 note 2 (Tex. App. 1998) (Rickhoff, J., concurring).
3. *In re Adoption of BGD*, 719 P.2d 1373, 1376 (Wyo. 1986).
4. See Samuels, *supra* note 1, at Parts II and VI. This article focuses only on consents to adoption by the mothers of newborn infants. Some states apply the same legal rules to both mothers' and fathers' consents, while other states treat mothers and fathers somewhat differently. For example, some or all fathers, but not mothers, are permitted to consent to adoption before the birth of the child in Delaware, Illinois, Kansas, Nevada, North Carolina, Oklahoma, Pennsylvania, and Utah. See 1 *Adoption Law and Practice* app. 1-A (Joan Heifetz Hollinger et al. eds., 2004); Nat'l Council for Adoption, Resources: State Laws, at <http://infantadopt.org/statelaws.html> (last visited May 10, 2005). An earlier article by the author in this journal, *Legal Representation of Birth Parents and Adoptive Parents*, REST OF CITE, addressed issues related to the legal representation of both prospective birth parents as well as of adoptive parents.
5. *In re Baby Girl W.*, No. 87,291, slip op. at 2 (Kan. Ct. App. Apr. 5, 2002), *aff'd*, 43 P.3d 902 (Kan. Ct. App. 2002) (mem. decision), cert. denied, *Willson v. Catholic Charities Inc.*, 538 U.S. 945 (2003).
6. In 1998, in the public child welfare system, the median age of children whose adoptions were finalized was 4.8 years and only 6.2% were younger than one year old. See Kathy S. Stolley, *Statistics on Adoption in the United States*, 3 *Future of Child.: Adoption* 26, 35 (1993). As of Sept. 30, 2001, of the children in foster care waiting to be adopted, 96% were older than one year, 64% were older than five years, and 32% were older than 10 years. See Children's Bureau, U.S. Dep't. of Health & Human Servs., *The AFCARS Report*, at <http://www.acf.hhs.gov/programs/cb/publications/afcars/report8.htm> (last modified Mar. 28, 2003).
7. Ctr. for the Future of Children, *Overview and Major Recommendations*, 3 *Future of Child.: Adoption* 4, 5 (1993); see also 2 Madelyn Freundlich, *Adoption and Ethics* 77-79 (2000).
8. Barbara Melosh, *Strangers and Kin: The American Way of Adoption* 288 (2002).
9. *Id.* at 288.
10. Pertman, *supra* note 6, at 37.
11. Estimates of the percentages of adoptions arranged by private agencies versus independent providers vary. See generally Mark T. McDermott, *Agency Versus Independent Adoption: The Case for Independent Adoption*, 3 *Future of Child.: Adoption* 146 (1993) (stating that "more newborns are placed each year through independent adoption than through private agency adoption"); Kathy S. Stolley, *Statistics on Adoption in the United States*, 3 *Future of Child.: Adoption* 26, 31 (1993) (estimating that similar percentages of adoptions are arranged by private agencies and independent providers).
12. Pertman, *supra* note 6, at 37.
13. See Nat'l Adoption Info. Clearinghouse, U.S. Dept. of Health & Human Servs., *Costs of Adopting 1-3* (June 2004), available at <http://naic.acf.hhs.gov/pubs/s/cost/s>

costs.pdf [hereinafter Costs of Adopting]; Sue Zeidler, Internet Transforms U.S. Adoption Process, Reuters, May 21, 2004; see, e.g., 2 Freundlich, *supra* note 8, at 12, 14; Pertman, *supra* note 6, at 228; Gay Jervej, Priceless, Money, Apr. 2003, at 119-24.

14. See Costs of Adopting, *supra* note 14, at 1, 3; Melosh, *supra* note 9, at 289.

15. 2 Freundlich, *supra* note 8, at 21.

16. See for example, Child Welfare League of Am., CWLA Standards of Excellence for Adoption Services for Abused or Neglected Children and Their Families 9 (rev. ed. 2000) [hereinafter CWLA Standards].

17. See Conn. Gen. Stat. Ann. §45a-727(3) (West Supp. 2004); Del. Code Ann. tit.13, §904 (Supp. 2002); Minn. Stat. Ann. §259.22 (West 2003).

18. See Mark T. McDermott, *supra* note 12 at 146.

19. This paper focuses only on the issue of consent by the mothers of newborn infants. Some states apply the same legal rules to both mothers' and fathers' consents, while other states treat mothers and fathers somewhat differently. For example, a number of state consent laws treat either all fathers or certain classes of fathers differently than mothers. Some or all fathers, but not mothers, are permitted to consent to adoption before the birth of the child in Delaware, Illinois, Kansas, Nevada, North Carolina, Oklahoma, Pennsylvania, and Utah. See 1 Adoption Law and Practice app. 1-A (Joan Heifetz Hollinger et al. eds., 2004); Nat'l Council for Adoption, Resources: State Laws, at <http://infantadopt.org/statelaws.html> (last visited May 10, 2005).

An earlier article by the author in this journal, Legal Representation of Birth Parents and Adoptive Parents, *Adoption Quarterly*, 9(4), 73-80, addresses issues related to the legal representation of both sets of parents.

20. John Triseliotis et al., *Adoption: Theory, Policy and Practice* 113 (1997).

21. *Id.* at 100.

22. *Id.*

23. 2A Patricia Roles, *Saying Goodbye to a Baby* 15 (1989).

24. *Id.*

25. See CWLA Standards, *supra* note 17, at 28.

26. See James L. Gritter, *Lifegivers: Framing the Birthparent Experience in Open Adoption* 88 (2004).

27. See *id.* at 217; 2A Roles, *supra* note 24, at 18.

28. CWLA Standards, *supra* note 17, at 28.

29. Triseliotis et al., *supra* note 21 at 99; see also Diana S. Edwards, *American Adoption and the Experiences of Relinquishing Mothers*, *Practicing Anthropology*, Winter 1999, at 18.

30. Robin C. Winkler et al., *Clinical Practice in Adoption* 48 (1988).

31. Gritter, *supra* note 27, at 87.

32. Winkler et al., *supra* note 31, at ix; see also Naomi Cahn, *Perfect Substitutes or the Real Thing?*, 52 *Duke L.J.* 1077, 1148-54 (2003) (discussing "adoptive families and assimilation").

33. David M. Brodzinsky, *A Stress and Coping Model of Adoption Adjustment*, in *The Psychology of Adoption* 3, 23 (David M. Brodzinsky & Marshall D. Schechter eds., 1990).

34. Triseliotis et al., *supra* note 21, at 35.

35. CWLA Standards, *supra* note 17, at 28-29.

36. Gritter, *supra* note 27, at 94.
37. See Anjani Chandra et al., Adoption, Adoption Seeking, and Relinquishment for Adoption in the United States, (Nat'l Center for Adoption Statistics, Advance Data Report No. 306, 1999).
38. See Nat'l Ass'n of Soc. Workers, Code of Ethics §§1.02, 6.04(b)(1999).
39. *Id.* 3.09(d).
40. Triseliotis et al., *supra* note 21, at 97.
41. Gritter, *supra* note 27, at 103.
42. 2A Roles, *supra* note 24, at 14.
43. *Id.*
44. See Samuels, *supra* note 1, at Part III.
45. Heather Lowe, What You Should Know if You're Considering Adoption for Your Baby 6, available at <http://www.cubirthparents.org/booklet.pdf> (last visited May 10, 2005).
46. See Samuels, *supra* note 1, at Part IV.A.
47. Pertman, *supra* note 6, at 109.
48. *In re* Adoption of BGD, 713 P.2d 1191, 1193 (Wyo. 1986).
49. 2A Roles, *supra* note 24, at 17.
50. Pertman, *supra* note 6, at 213.
51. Lowe, *supra* note 46, 10.
52. *Id.*
53. Triseliotis et al., *supra* note 21, at 62.
54. See Samuels, *supra* note 1, at notes 245-246.
55. See Katherine G. Thompson, Contested Adoptions: Strategy of the Case, in 2 Adoption Law and Practice, *supra* note 6, 8.02(1)(b).
56. See Samuels, *supra* note 1, at Part V.
57. See *id.* at notes 56-61.
58. See *id.* at Part V.
59. Cal. Fam. Code §§8801.5(a), (d), 8801.7(a)-(b), 8502(a)(1)-(2), 8801.5(e)(West 2004).
60. Professor Hollinger advises: The attention of lawmakers should be directed . . . at insuring that consents, when executed, are consents. Perhaps in all adoptions-agency as well as independent-voluntary relinquishments should be executed before a neutral party (judge? court officer?) who not only witnesses the signing of forms, but more importantly, queries the birth parent about her understanding of the consequences of her action. Risks are posed, however, even by this procedure. Not the least of these is that the birth mother's resolve to relinquish her child will be subject to extensive and inappropriate scrutiny. Joan Heifetz Hollinger, Reflections on Independent Adoptions, in Legal Advocacy for Children and Youth: Reforms, Trends, and Contemporary Issues 366, 377-78 (1986).
61. VI. Stat. Ann. tit. 15A, §§2-404(e), 2-405(d), 2-406, 2-406(a)(5) (2002).
62. Triseliotis et al., *supra* note 21, at 63.
63. Melosh, *supra* note 9, at 29-31.
64. For example, the Uniform Adoption Act specifies procedures for placement of a child before a consent is executed: [T]he parent or guardian who places the minor shall furnish to the prospective adoptive parent a signed writing stating that the transfer of

physical custody is for purposes of adoption and that the parent or guardian has been informed of the provisions of this [Act] relevant to placement for adoption, consent, relinquishment, and termination of parental rights. The writing must authorize the prospective adoptive parent to provide support and medical and other care for the minor pending execution of the consent within a time specified in the writing. The prospective adoptive parent shall acknowledge in a signed writing responsibility for the minor's support and medical and other care and for returning the minor to the custody of the parent or guardian if the consent is not executed within the time specified. Unif. Adoption Act 2-102(d), 9 U.L.A. 31 (1996).

65. The Merck Manual of Medical Information 1476 (Mark H. Beers et al. eds., 2003).

66. Plutarch, Pericles (John Dryden trans.), available at <http://classics.mit.edu/Plutarch/pericles.html> (last visited May 7, 2005).

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