May 14, 2021

99 Wellesley Street West
Room 1405, Whitney Block
Queen's Park Toronto, ON

Dear MPP Anand & Honourable Standing Committee on Social Policy Members:

We appreciated the opportunity to present at the heading on Thursday, May 13, 2021. Please accept this written submission to provide further clarification on our position.

The Ontario Association for Behaviour Analysis (ONTABA) is a non-profit, professional association made up of a volunteer board of directors, volunteers, and over 1400 members including: educators, researchers, private and public practitioners, students and other regulated health professionals such as psychologists and speech-language pathologists. Formed as an affiliate of the Association for Behavior Analysis International in 1993, ONTABA has continued to grow steadily to be the largest professional association representing behavioural science and services in Canada. ONTABA has members across all regions of the province and across most, if not all of Ontario's political ridings. Behavior analysts practice in diverse areas including: education, health, mental health, geriatrics, forensics, acquired brain injury, autism and developmental services, organizational behaviour management, sports, and recreation. The majority of Applied Behaviour Analysis (or ABA) services in Ontario are provided to vulnerable people, their families, and caregivers.

After almost 25 years of advocating for public protection, ONTABA is encouraged by the April 27th, 2021 announcement regarding Bill 283. We are pleased to see that Schedule 4 includes the necessary legislative step to regulate the practice of ABA through registration of behaviour analysts. Should Bill 283 pass into law, it will repeal the Psychology Act of 1991 and replace it with the Psychology and Applied Behaviour Analysis Act of 2021. ONTABA has been working closely with the College of Psychologists and the relevant Ministries to inform this process.

ONTABA is encouraged that behaviour analysts would be regulated alongside psychologists as a new autonomous profession within a renamed College of Psychologists and Behaviour Analysts. This model is also used in the College of Audiologists and Speech-Language Pathologists, two complementary professions regulated under the same college. Behaviour analysts work collaboratively with many other health professions to provide interprofessional care. In fact some of the members of ONTABA are dually certified as Board Certified Behavior Analysis as well as regulated health professionals, such as nurses, speech-language pathologists, and psychologists/psychological associates.

Ultimately Schedule 4 of Bill 283 protects people seeking and receiving behavioural services. As a professional organization, we support public protection through regulation of behaviour analysts under the Regulated Health Professions Act (RHPA). Regulation controls who can use the title Behaviour Analyst by setting qualifications, entry to practice requirements, and scope of practice. It protects the public by setting the standard for practice, has a mechanism to hear complaints, and a discipline committee to determine sanctions. We believe that regulation will help the public to differentiate between qualified professionals, and those who claim to practice ABA despite their lack of training and competence and have a higher likelihood of causing harm.

The following two anecdotes highlight the need for public protection through regulation of the practice of ABA in Ontario. Situations like these must be prevented from happening in the future.

(Please note that names have been changed for privacy.)

This is what happened to Sarah and her parents…

Sarah was a 4-year-old girl with autism. She was not yet using words but could point to the things she wanted. She banged her head on the floor often. She did not yet use the toilet independently. Their pediatrician recommended that they seek ABA services. Her parents learned that intensive behavioral intervention or IBI based on ABA had the strongest evidence base for helping children with autism to achieve their potential. Sarah's parents fortunately had the means to pay for the 20 hours/week of services recommended for Sarah's level of need and optimal outcomes. They scheduled a meeting with the CEO of a company that looked credible on their website. The CEO, who was also the "head behaviour analyst", told Sarah's parents that she had training in ABA. She was also the "therapist" who would provide direct service. Sarah's parents read about other clients' successes on the provider's website and were excited by the prospect of similar outcomes for their child. Sarah started receiving services at home and the therapist was friendly and seemed to be keeping her engaged. Sarah started to use pictures to communicate some of her wants & needs but made few other improvements after many months of 20 hours/week of service. When Sarah's parents asked about the lack of progress, the therapist told them to be patient. They were most concerned that Sarah continued to hit her head on the floor even harder now. One day Sarah's mother heard her crying and was shocked to see the therapist spraying Sarah in the face with lemon juice each time she hit her head on the floor. Sarah's parents were not consulted on that procedure nor asked for consent for it to be used. They terminated services immediately and filed a complaint with the police and the Children's Aid Society. During the inquiry they discovered that the CEO of that company, who had claimed to be a trained behaviour analyst, did not have certification of any kind; she did not have the graduate level university training necessary for certification, she did not have any post-secondary training at all. In fact, the CEO had a high school GED and no training in behaviour analysis. Sarah's parents later found out once they were receiving services from a qualified behaviour analyst, that the procedure being used was highly intrusive and should not have been used. The costs for this unethical and ineffective treatment went beyond the

financial; it also wasted valuable time that could have been spent in quality individualized evidence-based services.

Nothing prevented this CEO from representing herself as a behaviour analyst in Ontario and engaging in fraudulent and harmful service delivery. Sarah's parents had no mechanism besides a civil action suit to deal with this situation, which they could no longer afford. Without the proposed legislation, this could happen to more families seeking evidence-based ABA services in this province.

When Sarah resumed IBI with a reputable organization, she learned how to communicate with some words as well as pictures, learned to use the bathroom independently and her head banging ceased. Her behaviour analyst also empowered Sarah's parents by teaching them several ways to support Sarah including offering choices and what to do if she did bang her head. They observed many changes in Sarah over the course of only a few short months working with a competent and qualified behaviour analyst and were thankful that their first experience did not sway them from seeking out another provider.

This is what happened to Steve and his parents…

The next example is a middle-aged man named Steve with an intellectual disability who lived in a supported living environment run by a company that claimed to provide behaviour analytic services. Steve had previously received services from a community behaviour analyst in a different program for adults, which had been very helpful for teaching Steve to enjoy activities and make connections within his community. Steve moved to this home as his parents were aging and they wanted him to become accustomed to living away from them in a supported environment that would continue to provide him with ABA services.

Steve's family began to worry about him during COVID-19 related restrictions as they were unable to visit him. Before the shut down, they had been under the impression that staff were supporting Steve to increase his independence in self-care and housekeeping. He was reported to be going on daily walks and running errands in his community. During the pandemic it became clear that the agency did not have adequate staff to support all of their 100 clients across sites. Steve's family also noticed that although the agency promised to offer skill-building programming and enriching experiences consistent with Steve's interests, he seemed to spend most of his day by himself in his room, was wearing a disposable brief instead of learning independence, and was beginning to act out, which he had never done at home. He began having frequent urine accidents. When his parents insisted that he see a physician he was found to have a urinary tract infection and serious rash from being left too long in soiled briefs. The family called one evening and spoke to a replacement staff from an outside agency who told them that Steve appeared to be deteriorating over the course of the last few months compared to when he had last worked with him.

When the family tried to get more information, the company was evasive. When the family looked into the background of the CEO of this company, they were shocked to learn that he had an unrelated college diploma and did not have the qualifications to become certified as a behaviour analyst or the competencies necessary for providing ABA services. He clearly did not have necessary training and

experience to support the 100 clients living within the organization. None of the direct care staff supporting these clients had received any formal training on the ABA programs that the agency claimed to offer. Despite providing services on behalf of a local support service transfer payment agency, this company was completely unaware of their responsibilities and Steve's rights under the Quality Assurance Measures (O. Reg. 299/10). They didn't even have access to the qualified professionals to oversee a behaviour support plan. Steve's family had wasted their hard-earned retirement income on unethical and ineffective services.

Nothing prevented that CEO from representing his organization as proving ABA despite the lack of qualified personnel and the misrepresentation of their work as behavioural programming. The proposed legislation will ensure that only qualified clinicians who meet the entry to practice requirements and have the necessary qualifications can call themselves behaviour analysts and provide ABA services.

They had to find Steve a new living arrangement as well as a qualified behaviour analyst to work with him to restore his lost skills and reduce his harmful behaviour. When he began receiving these new behavioral support services in his new home, the behaviour analyst provided meaningful activities in Steve's daily schedule. He learned to use the bathroom independently which meant he no longer had to wear briefs. Steve's behaviour analyst also taught him how to call his parents on Zoom so he felt connected to them. Steve's acting out decreased to near zero levels. As soon as it was possible, outdoor visits were arranged with his parents, and they felt like they had the old Steve back.

Some might wonder why professionals would seek regulation and such a high level of scrutiny on their practice. The answer is simple: because we don't want to see others experience what Sarah, Steve, and their families did. The potential for these types of devastating situations spans across sectors, essentially anywhere people are seeking behavioural support services.

Ontario needs to move forward with regulation, as the current reliance on voluntary US certification with the Behavior Analyst Certification Board (BACB®), while valuable, is inadequate, in that only those who are certified are to be subjected to the BACB® 's accountability measures. Even then, should a clinician not abide by or breach the accountability measures, the highest sanction that can be applied by the BACB®, removal of certification, would not prevent someone from continuing to practice behaviour analysis in Ontario.

The title "behaviour analyst" needs to be reserved for people with appropriate training and qualifications to provide competent and ethical services in Ontario. In fact, when the Health Professions Regulatory Advisory Council (HPRAC) report on the prospect of regulation of ABA was released in 2019, it noted that the risk of harm to recipients of ABA services is mitigated when there are practitioners who have the appropriate qualifications, training, and competence.

Without regulation, behaviour analysts are not formally recognized as regulated health professionals, and so there is no clear direction for behavioural clinicians as to what legislation governs their practice, especially for those who are not members of a regulatory health college. This also leads to ambiguity as

to which privacy legislation (e.g., PHIPA, FIPPA, M-FIPPA, PIPEDA) behaviour analysts should be adhering to. Similar confusion exists in relation to behavioural clinician's roles in the "Circle of Care" allowing information sharing in interprofessional settings or practices under PHIPA. ONTABA received ministry support to provide education and training on jurisprudence and ethics, however many people who offer ABA services are not members of ONTABA may not be aware of these freely-available resources.

Regulation under the RHPA would increase public access to qualified behaviour analysts across a variety of sectors, promote ethical practice within scope, and offer a local complaints mechanism for reporting unethical or harmful practices for those who are not. Unfortunately, we don't know how many service recipients in Ontario have experienced unethical and harmful treatment by those claiming to be providing ABA services.

Though there are critics of ABA and those who oppose ABA outright, it is important to note that regulation would answer most, if not all of their criticisms and concerns. Many of these arguments speak to unethical and harmful services which were inconsistent with current best practices and delivered by untrained and unqualified practitioners. The public deserves guidance as to what credentials to look for in those claiming to provide potentially life-changing ABA services.

It is crucial for protection of people seeking ABA services that Section 4 of Bill 283 successfully becomes legislation. ONTABA is well-positioned to provide consultation and support to the relevant ministries and the College of Psychologists as the regulation process continues to unfold.

ONTABA supports public protection for all of the Sarahs, Steves, and their families in Ontario through Section 4 of the passing of Bill 283.

Sincerely,

Kendra Thomson

Kendra Thomson, PhD, BCBA-D
President, Ontario Association for Behaviour Analysis Inc. (ONTABA)
On Behalf of the Board of Directors