



## **Submitted by email and delivered**

January 25, 2018

Ministry of Children and Youth Services  
56 Wellesley St West, 15th Floor  
Toronto, ON M5S 2S3

To Whom It May Concern:

### **Re: Proposed regulations under the CYFSA relating to requirements for qualifications of Children's Aid Society staff and adoption/adoption licensing (Proposal Numbers 17-CYS034 and 17-CYS020)**

I am writing as President of the Ontario College of Social Workers and Social Service Workers (the OCSWSSW) to express our very serious concerns about proposed regulations under the new *Child, Youth and Family Services Act, 2017* (CYFSA). The OCSWSSW is specifically concerned with:

1. proposed regulations which set out the qualifications of Children's Aid Society (CAS) staff, including local directors and supervisors, and, in the case of child protection workers, the qualifications of a child protection worker, their additional duties and scope of practice (Proposal 17-CYS034); and
2. proposed regulations concerning adoption and adoption licensing, which propose that CASs and adoption licensees be permitted to arrange to have the home of the prospective adoptive parents visited by persons who are not social workers, and that adoption agencies would no longer be required to have access to a social worker (Proposal 17-CYS020).

The approach taken in the proposed regulations ignores the *Social Work and Social Service Work Act, 1998* (SWSSWA), the fact that social workers and social service workers are regulated professions in Ontario and the OCSWSSW's important role in protecting the Ontario public from harm caused by incompetent, unqualified or unfit practitioners. A commitment to public protection, especially when dealing with vulnerable populations such as the children, youth and families served by CASs, is of paramount importance. In short, it is irresponsible for government to propose regulations that would allow CAS staff to operate outside of the very system of public protection and oversight it has established through

professional regulation. Ontarians have a right to assume that, when they receive services that are provided by someone who is required to have a social work degree (or a social service work diploma) – whether those services are direct (such as those provided by a child protection worker or adoption worker) or indirect (such as those provided by a local director or supervisor) – that person is registered with, and accountable to, the OCSWSSW.

As a key stakeholder with respect to numerous issues covered in the CYFSA and the regulations, we were dismayed to learn just prior to the posting of the regulations that we had been left out of the consultation process. We have reached out on more than one occasion to request information about regulations to be made under the CYFSA regarding staff qualifications. This submission is intended to:

- highlight the important role of the OCSWSSW and its relevance in the child welfare context;
- describe the OCSWSSW's significant concerns and its position with respect to the proposed regulations; and
- urge the Ministry of Children and Youth Services (MCYS) to make changes to the proposed regulations which would address the risk to the public associated with many CAS workers in Ontario being unregulated by a professional regulatory body.

### **The Proposed Regulations:**

As proposed, the regulations would:

- Prescribe minimum qualification requirements for Local Directors of CASs which would include a professional degree or diploma in social work at an accredited school of social work in Canada or an equivalent school of social work outside of Canada and a minimum of three years of experience;
- Include a common definition of a "society supervisor" and set minimum qualification requirements for society supervisors, requiring a professional degree or diploma in social work from an accredited school of social work in Canada;
- Revoke existing regulatory provisions under the *Child and Family Services Act* (CFSA) which specify various classifications of "social workers" to be employed by societies because they "do not align with the Social Work and Social Service Work Act, 1998";
- Permit CASs and adoption licensees to arrange to have the home of the prospective adoptive parents visited by persons who are not social workers; and
- Remove the requirement that an adoption agency (i.e. a CAS or a licensee) have access to a social worker.

### **The OCSWSSW's Relevance in the Child Welfare Context:**

Like other professional regulatory bodies in Ontario, the OCSWSSW plays a critical role in protecting the Ontario public from incompetent, unfit and unqualified practitioners. This role is highly relevant to the child welfare context, which serves some of the most vulnerable children, youth and families in Ontario. Accountable to the Ministry of Community and Social Services, the OCSWSSW currently regulates over 20,000 social workers and social service workers who practise in diverse contexts and settings. Approximately 1,100 members are employed in child welfare.

The OCSWSSW's mandate, set out in the SWSSWA, is to protect the public interest. This mandate includes:

- **Setting entry-to-practice requirements** which ensure only those with appropriate educational qualifications are eligible for registration. Unlike an individual employer, such as a CAS, the OCSWSSW is able to maintain thorough registration processes, with multiple checks and balances to ensure required documents are received directly from accredited academic programs within authorized academic institutions. The OCSWSSW also has processes for equivalency, permitting those with a combination of academic qualifications and experience performing the role of a social worker or social service worker to register with the College. These processes address, among other things, the risk posed by “fake degrees” and other misrepresentations of qualifications, ensuring Ontarians know that a registered social worker or social service worker has the education and/or experience to do their job. The review of academic credentials and knowledge regarding academic programs is an area of expertise of a professional regulatory body. An individual employer will not have the depth of experience with assessing the validity of academic credentials nor the knowledge of academic institutions to be able to uncover false credentials or misrepresentations of qualifications on a reliable basis.
- **Setting, maintaining and holding members accountable to the Code of Ethics and Standards of Practice.** These minimum standards apply to all OCSWSSW members, regardless of the areas or context in which they practise. Especially relevant in the child welfare context are principles that address confidentiality and privacy, competence and integrity, record-keeping, and sexual misconduct.

- **Maintaining fair and rigorous complaints and discipline processes.** These processes differ from government oversight systems and process-oriented mechanisms within child welfare, as well as those put in place by individual employers like a CAS. They focus on the conduct of individual professionals. Furthermore, transparency regarding referrals of allegations of misconduct and discipline findings and sanctions ensures that a person cannot move from employer to employer when there is an allegation referred to a hearing or a finding after a discipline hearing that their practice does not meet minimum standards. Other highly-regulated sectors in Ontario (both unionized and not), including hospitals, long-term care facilities and child care centres, require individual professionals to be regulated through registration or licensing, in addition to the various organizational and system-level accountability mechanisms that are in place. It is both understood and accepted that requiring accountability at all levels is the only meaningful and effective way to ensure the protection of vulnerable clients within these sectors.
- **Providing transparency through the maintenance of a public register.** All OCSWSSW members are listed on an **Online Register**, which includes information regarding a member's registration status, their discipline history (if any), restrictions on their practice (if any) and employer contact information. A search of the Public Register also shows former members of the OCSWSSW whose certificates of registration were suspended, revoked or cancelled.

**Regulation of a profession provides public transparency.** This transparency is integral to ensuring public protection and is consistent with other regulated professions.

The OCSWSSW provides transparency by (among other things) publishing decisions of the Discipline Committee on its website and the results of discipline proceedings on the Public Register.

#### Recent Discipline Cases:

As part of its public protection mandate, the OCSWSSW considers and investigates reports and complaints regarding alleged misconduct of its members. Processes are in place which ensures fairness for all parties. Three high-profile discipline cases illustrate the vital role the OCSWSSW plays in protecting the public and ensuring individuals and potential employers can access, on the Online Register, information about a member's discipline history:

- *Woolie Madden* was found to have committed professional misconduct in his role as a child protection worker. He failed to meet professional standards in relation to a number of families by not investigating/following up on reports of physical and sexual abuse and domestic violence, and failing to document appropriately.
- *Lynda Cullain*, a manager at a CAS, was found to have committed professional misconduct by, among other things, improperly disclosing information concerning or received from clients without consent when she improperly released information relating to proceedings under the CFSA, including a child protection proceeding involving a CAS client and her child and another Crown wardship proceeding.
- Allegations against a social work member have been referred to the Discipline Committee for a hearing. The allegations include contravening the CFSA and/or the Adoption Information Disclosure Regulation, improperly accessing and releasing information relating to a closed adoption, and engaging in conduct that would reasonably be regarded by members as disgraceful, dishonourable or unprofessional.

Had these individuals not been members of the OCSWSSW, the OCSWSSW would not have been in a position to consider and investigate reports or complaints made against them. The Discipline Committee would not have been, or would not be, able to hold a hearing to determine whether the member committed an act of professional misconduct. Where a member is found to have committed an act of professional misconduct, the Discipline Committee can impose a sanction. Without regulation by a professional regulatory body, this crucial information regarding findings of professional misconduct and sanctions imposed would not be available to the Ontario public – whether current or future clients or prospective employers both within and outside the child welfare sector.

### **The Proposed Regulations and the OCSWSSW's Position:**

#### 1. *The credential focus:*

The proposed regulations fail to address an ongoing and significant risk to the public stemming from the fact that in Ontario, many CAS workers who should be regulated by a professional regulatory body are, in fact, not. By focusing on a social work credential (a degree or a diploma in social work; we note that a diploma in social work has not existed in Ontario for many years) as opposed to registration with the OCSWSSW, the regulation ignores the existence of a professional regulatory body whose mandate is to regulate social workers and social service workers in the public interest. A local director or a supervisor who possesses a social work degree and is



working within the scope of practice of social work is not only eligible for registration with the OCSWSSW, but should be registered. The existing regulations made under the CFSA predated the regulation of social work and social service work in Ontario and therefore their focus on the credential was understandable. However, today a credential focus is neither reasonable nor defensible. Social work and social service work are regulated professions in Ontario. A “social worker” or a “social service worker” is by law someone who is registered with the OCSWSSW. Furthermore, as noted previously, the Ontario public has a right to assume that when they receive services that are provided by someone who is required to have a social work degree (or a social service work diploma), that person is registered with the OCSWSSW.

Title protection and holding out provisions underpin the framework of professional regulation in Ontario. This framework exists because the government and the people of Ontario believe that it is necessary to protect a vulnerable public from harm. A focus on social work credentials in the regulation is therefore not only outdated but highly problematic.

The OCSWSSW agrees that existing regulations made under the CFSA need to be updated. But this update must reflect the decision the Province made 17 years ago to regulate, in the public interest, social workers and social service workers - those professionals who practise social work and social service work, including in the child welfare sector, and serve the most vulnerable population of Ontario. It is of great concern to us that the proposed regulations do not support the OCSWSSW’s important public protection mandate but instead go against the province’s long-established policy direction that recognizes the need for social work and social service work services to be delivered by regulated professionals.

Since it began operations in 2000, the OCSWSSW has worked steadily to address the issue of child protection workers. Unfortunately, many CASs have been circumventing professional regulation of their staff by requiring that staff have social work education yet discouraging those same staff from registering with the OCSWSSW. The majority of local directors, supervisors, child protection workers and adoption workers have social work or social service work education, yet fewer than 10% are registered with the OCSWSSW.

It is not reasonable or acceptable, in our view, for the government to propose laws that will permit CAS staff to operate outside this regulatory framework. Surely the most vulnerable people in our society—children and youth and their families—are deserving of public protection accomplished by regulation of the professionals who deliver services to

them. When their CAS worker has a social work degree and performs the services of a social worker, does that child, youth or family not have a reasonable expectation that that person actually should be a 'social worker', a regulated professional under the laws of Ontario?

2. *Access:*

The OCSWSSW appreciates the importance of continued access to qualified staff so that CASs are able to fill certain management, supervisory and direct service roles. But the basic entry to practice requirement to become a social work member is a BSW or MSW or its equivalent and to become a social service work member is a diploma in social service work or a diploma from an equivalent program. This means that Directors or Supervisors with an MSW from accredited programs would already have met the entry to practice requirements of the OCSWSSW.

With respect to those CAS staff who may not have a BSW or MSW or a diploma in social service work, there are alternate routes to registration with the OCSWSSW that would ensure that CASs continue to have access to qualified staff. Among these is the "equivalency" application stream, which enables applicants to register with the OCSWSSW if they have a combination of academic qualifications and experience performing the role of a social worker or a social service worker that is substantially equivalent to a degree in social work from an accredited program or a diploma in social service work from a College of Applied Arts and Technology.

In addition to the flexibility offered through the equivalency application streams, we note that there are also a number of legislative mechanisms (including exemptions that could be provided in the regulation) to assist with any transition.

Based on information that we have received regarding the education and experience of the local directors, supervisors and child protection workers currently employed at CASs in Ontario, we are confident that the OCSWSSW's equivalency application process or appropriate exemptions and/or transition provisions would adequately address any concerns about access or workforce stability within the child welfare sector.

3. *Child Welfare and Social Work/Social Service Work Education:*

For decades, CASs have hired individuals with a social work degree (or in some cases a social service work diploma) for various roles in child protection, indicating their acknowledgment that these professions are

uniquely qualified to provide competent, ethical and professional service to highly vulnerable clients. This has been true throughout the long history of the profession, not only in Ontario, but in all jurisdictions in Canada, the United States and beyond. Indeed, child protection literature has always been understood to form an important subset of social work's (and later, social service work's) knowledge base, and courses in child welfare comprise an important part of social work and social service work education. Removing the references to "social worker" in the proposed regulation may appear to those unfamiliar with these issues related to regulation in the child welfare sector to demonstrate a well-intentioned effort to comply with the SWSSWA; in our view, it is a highly regrettable and misleading strategy which ignores the actual work being done by many child protection workers and will have the consequence (whether intended or not) of allowing them to avoid the professional regulation of CAS workers.

#### 4. *Child Protection in other Canadian jurisdictions:*

Ontario will be behind other provinces if it moves ahead with its goal of strengthening child welfare without requiring the professional regulation of staff in the child welfare sector. The legislative framework in other Canadian provinces supports the OCSWSSW's position that work in child protection, whether it involves direct service to clients or indirect service through supervisory or management roles, falls under the scope of practice of social work and should therefore be regulated. The *Children and Youth Care and Protection Act* in Newfoundland and Labrador, for example, makes the requirement for professional regulation very clear by using the title "social worker", defining it as an individual who is registered under the *Social Workers Act*, and referring specifically to the role of the social worker in the provision of child welfare services. Alberta and New Brunswick are other examples of provinces where legislation clearly supports a requirement for professional regulation of staff in the child welfare sector and recognizes that practice in child welfare falls under the larger umbrella of social work practice. Finally, in Quebec, the *Youth Protection Act* (which is similar to the CFSA and applies to children and youth who are 18 and under) provides that evaluations of children and youth are reserved activities and restricts the performance of these activities to three regulated professions: social workers, psycho-educators and criminologists. Prior to 2012, these activities were not restricted to regulated professionals. But Quebec recognized that these evaluations carried tremendous risk to vulnerable populations and should therefore be restricted to accountable and regulated professionals. In 2012, Quebec took the legislative steps needed to restrict these activities to regulated professionals.



### 5. *Other Risks:*

While we recognize the government may be concerned that there is some risk in moving in the direction of requiring CAS staff to be regulated, we would nevertheless suggest that there is a much greater risk in choosing a path which does not adequately protect the public – especially vulnerable children, youth and families – and does not support the government’s broader commitment to professional regulation. Does the government have to wait for future tragic child protection cases, such as those of Jeffrey Baldwin and Katelynn Sampson, to demonstrate again the important role that professional regulation plays in ensuring that those who provide service to the most vulnerable are held appropriately accountable? The OCSWSSW regularly receives calls from recipients of services from CAS workers indicating that the CAS workers have social work or social service work education. It turns out that the CAS workers are not registered with the OCSWSSW. These clients (and others) are understandably confused as to why the OCSWSSW cannot investigate their concerns or otherwise assist them. Government should not underestimate the risk to public confidence in Ontario’s child welfare system that could be posed by the sudden emergence in the media of another high profile case involving CAS staff who were eligible for registration with the OCSWSSW yet “chose” not to register or were discouraged by their CAS employer from doing so.

### **The Solution:**

The solution, in our view, is both straightforward and the right thing to do. It involves:

- Requiring registration with the OCSWSSW for all CAS staff, including local directors, supervisors, child protection workers and adoption workers; and
- Providing for exemptions and transition mechanisms to ensure that there is no disruption or instability within the child welfare sector. The OCSWSSW is open to working with government and the sector throughout any transition period to facilitate the streamlined processing of applications and registration of CAS staff.

### **Conclusion:**

Updating the regulations under the new CYFSA provides an important opportunity for the Government to protect the Ontario public from incompetent, unqualified and unfit professionals and to prevent a serious risk of harm to children and youth, as well as their families. As Minister Coteau said in second reading debate of Bill 89, “protecting and supporting children and youth is not just an obligation, it is our

moral imperative, our duty and our privilege—each and every one of us in this Legislature, our privilege—in shaping the future of this province.”

We respectfully suggest that the Government has a duty to move forward in a way that is consistent with all of the laws of the Province of Ontario (including the SWSSWA) and protects the children, youth and families of Ontario. This is no less than requiring that CAS workers, whether they are local directors, supervisors, child protection workers or adoption workers, be registered with the OCSWSSW. We urge you to address our concerns by amending the proposed regulations to respond to our feedback. Should you have any questions or require further information, please contact the OCSWSSW’s Registrar and CEO, Lise Betteridge, directly by phone at (416) 972-9882 x225 or 1-877-828-9380 x225 or by email at [lbetteridge@ocswssw.org](mailto:lbetteridge@ocswssw.org).

Sincerely,



Shelley Hale, RSSW, RSW  
President

cc: The Honourable Helena Jaczek

Drew Davidson, Chief of Staff, Office of the Honourable Michael Coteau,  
Minister of Children and Youth Services

Miles Hopper, Senior Policy Advisor, Office of the Honourable Michael Coteau,  
Minister of Children and Youth Services

Cristina Taglione, Chief of Staff, Office of the Honourable Dr. Helena Jaczek,  
Minister of Community and Social Services

Andrew Campbell, Senior Policy Advisor, Office of the Honourable Dr. Helena  
Jaczek, Minister of Community and Social Services

Peter Kiatipis, Director, Child Welfare Secretariat, Ministry of Children and Youth  
Services