Response to

Bill 10, An Act to enact the Child Care and Early Years Act, 2014, to repeal the Day Nurseries Act, to amend the Early Childhood Educators Act, 2007, the Education Act and the Ministry of Training, Colleges and Universities Act and to make consequential and related amendments to other Acts

Ontario Standing Committee on Social Policy

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Summary

1. The Childcare Resource and Research Unit supports the intent and purpose of Bill 10 and urges the Legislature to pass it. We agree that new legislation is a necessary component of a high quality child care system and generally support most of the specific clauses and details.

   We are concerned that so much of the discussion about Bill 10 has become focused on issues associated with unregulated home child care while many other important aspects of child care in Ontario go unaddressed.

   We also suggest that the considerable misinformation and confusion about the nature of regulation in home child care and how it contributes to children's safety and quality warrant a provincial public education campaign.

2. We have several specific suggestions for amendments and additions to the legislation. These are by no means as exhaustive as they could be if there were a more robust policy process, more thorough consultation and a longer timeframe.

3. We argue that this legislation alone is not sufficient for the development and sustainability of the high quality early childhood education and child care system that Ontario needs. We suggest that the context has changed considerably since the Ontario government began to develop this legislation in 2011 and that the current political climate is a more favourable one for a more expansive approach to child care.

   Thus we urge the provincial government to begin a full policy process to develop a robust, comprehensive ("modernized") policy framework that lays out the provincial government's vision, rationales, principles, short and long-term plans, funding and evaluation mechanisms.

   We suggest that the format of a traditional White Paper process would be appropriate.

   We believe that this policy process needs to address such key issues as: how the high quality child care workforce (including home child care) needed to ensure high quality services will be ensured; how child care and kindergarten will become better integrated; how child care services will become affordable; how the supply of services will be grown to cover more than the 20% of children now covered; how the child care market will be transformed to a system, to name some of the most important policy issues that need to be addressed.

   We would look forward to working with the provincial government on such a task.

The Childcare Resource and Research Unit

The Toronto-based Childcare Resource and Research Unit (CRRU) has been a key actor in Ontario and Canadian child care for three decades. Originally funded by the Ontario government in 1982 and then by the federal government until the funding was cut in 2007, we are a main convener of knowledge, information and resources about ECEC research and policy. We are recognized as indispensable in the ECEC field for our role in ensuring that ECEC remains on the public policy agenda, that advocates and policy makers are empowered by knowledge, and that policy initiatives continue to be informed by a wide variety of information. One of CRRU's basic, driving premises has been that good public policy is based on solid information that draws on multi-disciplinary research and policy analysis.

Context

In 2011, the Ontario government made a commitment to "modernize Ontario's child care system and support centres". Following up on that commitment, in June of 2012 the Ministry of Education released "Modernizing Child Care in Ontario" which included the Ministry's intent to propose legislative and regulatory amendments to the *Day Nurseries Act.*

There have been many developments since that time: four children died in unregulated child care with unprecedented media attention, many centres closed (including many municipally-operated programs and community college lab schools) or downsized as full-day kindergarten was rolled out and a new funding formula cut funds to some municipalities, municipal subsidy waiting lists burgeoned, and parent fees were reported to be the highest and least affordable in Canada.

In December 2013 the Ministry of Education tabled Bill 143: *A Bill to enact the Child Care and Early Years Act, 2013, to repeal the Day Nurseries Act, to amend the Early Childhood Educators Act, 2007 and the Education Act and to make consequential amendments to other Acts*. Also in December 2013, new regulations were circulated but following community objections to the content and process of the regulatory changes, they were withdrawn. In the spring of 2014, a provincial election was called and Bill 143 died. Following election of a Liberal majority government, Bill 143 was re-introduced as Bill 10 in July of 2014.

At the same time, child care has moved to the top of the political agenda nationally with the Ontario government declaring that "we are committed to highlighting the need for a national investment in child care and working with the federal government to support greater access to quality child care and early years services in Ontario".

Overall, the landscape has changed considerably for child care in Ontario since this legislation was first initiated.

CRRU supports Bill 10

The Childcare Resource and Research Unit is supportive of the overall intent and direction of the legislation. However, we are most concerned about the confusing and misleading messages delivered by the organized opposition to Bill 10 to a public that is already confused about the nature of child care regulation and how good regulation and oversight are fundamental for ensuring children's safety, protection and well-being in child care, especially home child care.

We therefore urge passage of Bill 10 and urge the Ontario government to develop a campaign to educate the public about the nature and importance of regulation in child care generally, especially home child care.

Amendments and additions to Bill 10

As the summary notes, our suggested amendments and additions are by no means as exhaustive as they could be in a policymaking environment that included more coherent consultation, a longer timeframe and a modernized approach to ECEC policy. Nevertheless, we put forward some of the most obvious amendments and additions. We note that we think that there is evidence to support the idea that an agency-based model of home child care (used in Ontario and several other provinces) has a number of advantages over the individually-licensed model used in some other provinces. As well, we argue that the concept of "registration" by home child care providers in lieu of regulation (a model that has had quite negative consequences in the US) needs to be much better understood; we would strongly recommend against a "registration" approach.

We reserve broader remarks about ECEC policy making in Ontario for the last section on this brief.

i. Under home child care in Part 2, 6. 1 on page 12 of the Act: "The child care provided at the *premises* meets the following criteria…" should be amended to read "child care provided in the **provider's primary home residence** meets the following criteria"…

The "premises" in which regulated home child care is provided should be more clearly defined. The term "premises" is much too broad and therefore open to abuses of the "home" or "family" child care concept such as we have recently seen, for example, "home" child care in rented storefronts. It is important to note that regulated home or family child care was developed as taking place in the care-provider's own home in a family setting, not in a specially purchased or rented house or an alternative rented space such as a storefront or office space. The family setting has long been a key element in the conception of regulated home child care and its role in the broader regulated child care sector. We argue that this conception should be reinforced and protected in this legislation.

ii. Under home child care in Part 2, 6. 1. i. A. on page 12: "The child care is provided [...]by one child care provider for no more than six children".

We understand that raising the number of children allowed in regulated home child care is intended to be a mechanism to incentivize providers to join the regulated sector. We support the intent but do not agree that the proposed increase is an appropriate incentive for several reasons.

As the Ombudsman's Report pointed out, there has been no rationale offered for the number based on best practice or research. We agree with this and argue that adding an additional child is questionable from a quality perspective. Although the research is not definitive about exactly how many children is the right number, research, expert opinion and common sense suggest that six young children are too many for one adult alone in a home. A key European Commission quality report noted: "Ratios in family daycare should not be less than 1:4 under school age, and should include the carer's own children".

We also question the provincial government's assertion that this addition would create an additional 6000 regulated spaces. We assume that the figure 6,000 is based on the number of regulated homes; however, the mean number of children per home (using 2012 data) was 2.47. We assume two reasons

for this number: a) many of the children in home child care are infants and toddlers; and b) agencies used their discretion to appropriately limit the number of children in some homes. We support this kind of agency discretion, as this is part of their expert oversight role. We suggest, however, that the figure 6,000 additional regulated spaces is a considerable overestimation.

We submit that there are other incentives that could be used to persuade some unregulated providers to become regulated. We believe that the most important of these by far would be base funding agencies so they do not have to charge providers a fee. Current research we are engaged in with Campaign 2000 reinforces this. (See **Additions**, below).

In addition we suggest considering: reducing the number of children in **un**regulated child care rather than increasing the number in regulated care and providing more professional support, benefits and better pay to care-providers.

iii. Under home child care in Part 2: 6. 1. i. B. on page 12: "if regulations so provide, by two child care providers for no more than twice the number of children".

We believe that there should be further research and discussion before including regulated group home child care in legislation and are concerned that there is no supporting information or documentation offered. Ontario had an experiment with group home child care in the late 1980s and several other provinces permit it, so information gathering would be possible. As inclusion in legislation is a significant step and there has been no documentation to back this model up, we believe this item should be removed from Bill 10 at this time. We are aware that if the Ontario government chooses to experiment with a group family child care model after careful consideration, it would be perfectly possible to do so under available Ministerial authority.

iv. Under Advice from service manager, First Nation or prescribed local authority in Part 3: 20 (3) and 23 (1)(f) on page 22 and 24 respectively.

We strongly support this item and recommend strengthening it to state that, "the director *shall* send a copy of an application to a service manager, First Nation or prescribed local authority".

v. Under Provincial interest in Part 6: 49(f) on page 42: "respects equity, inclusiveness and diversity in communities and the particular qualities of…"

We recommend that the legislation explicitly state 'children with disabilities' as a group under 49(f). Alternatively, we suggest that the government could craft a more inclusive equity statement like that in the *Education Act* which states that, "[every board shall] promote a positive school climate that is inclusive and accepting of all pupils, including pupils of any race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status or disability" (Part IV Board Duties and Powers (a.1).

Canadian and international research clearly indicates that high quality inclusive child care programs are better for all children and that the features and supports needed to include children with disabilities are crucial for all children. An equity statement should, therefore, clearly state that inclusion and equity is not separate or distinct from any part of the legislation and applies to every aspect of the legislation governing regulated child care. It should be assumed that all services will be inclusive and equitable on an on-going basis.

vi. Under Schedule D, *Amendments to the Education Act,*5. (2), Extended day or third party programs: grade 1 to 6 pupils.

While we support the intention to provide extended day programs for children in grades 1 to 6 through the school boards, we are concerned about the capacity of third party providers to carry out these programs without additional adequate support. The chaotic implementation of the FDK extended day component highlighted many issues vis-à-vis accessibility and affordability of extended day programs. For example, there has been little attention paid to extension of extended hours services during holidays or summers, a gap that creates difficulties for children and families and has negative implications for employment of early childhood educators.

We urge a more coherent, publicly managed approach, one that ensures equity across school boards and across the province. For example, when third party operators are not able to meet the demand for the extended day program, the school needs to assume responsibility for ensuring access or there will continue to be long waiting lists. As well, the fee that third party providers must charge to sustain these programs is prohibitive for too many families and needs to be addressed.
We would also like to highlight the working conditions that extended day programs have perpetuated for early childhood educators such as the increase in part-time and split-shifts. The recruitment and retention of qualified and experienced staff for these programs should be a concern in relation to the quality and consistency of these programs across the province.

We would like to, therefore, recommend that more consideration be given to how the proposed extended day programs are executed, that more comprehensive principles and guidelines be developed, that more and appropriate support be provided, and that school boards be given more guidelines and resources to ensure universal access to those who want extended day care.

Proposed additions

i. We urge the provincial government to move to a base-funded approach for public and non-profit home child care agencies in lieu of having to charge providers a fee.

We believe that this is the best single action that could be taken to incentivize some unregulated providers to become regulated. We note that among the reasons that this would be appropriate is that the agencies are charged with responsibility for monitoring compliance with the province's child care regulations. We support the definition of base-funding and the approach described in the brief presented by the Home Child Care Association of Ontario:

Definition of base funding: Core funding provided directly to the home child care agency by the local CMSM/DSAAB that covers all fixed administrative costs as demonstrated initially by a budget submission and is confirmed through the submission of audited financial statements. The agreed upon annual total funding would be paid out on a quarterly basis.

ii. This legislation provides a monumental opportunity to mandate the inclusion of young children with disabilities in regulated child care.

Unfortunately, we know that children are too often turned away from child care programs that cannot accommodate their specific needs. The Ontario Human Rights Code does not, in practice, protect these children and their families and guarantee them access to regulated child care (indeed, access to child care is not an entitlement for any child). We believe the province should take this opportunity to lead the way on inclusive child care by legislating the inclusion of children with disabilities in regulated child care via Bill 10.

Until very recently, there was no policy or legislation in place in Canada specifying entitlement to service or inclusion for children with disabilities in child care. However, one of Prince Edward Island's requirements for the province's new more publicly-managed and funded Early Years Centres is that children with disabilities and/or special needs cannot be refused a place in the program because of their disability or special need. We believe that Ontario should at least follow suit.

iii. We would like to express support for extension of the existing "two under age two" ratio that regulated home child care providers have long complied with to the unregulated sector.

We see no rationale for not requiring unregulated providers to hold to *at least* the same minimum standard as regulated. We suggest that the "two under two" number was included in the regulations many years ago for good reason. We also note that a number of the other provinces already restrict the number of children by age group in unregulated child care, usually for children under age two. Indeed, we would support extending the "three under age three" ratio to unregulated homes as well and submit that there is no rationale for not doing so.

iv. We continue our support for including in the legislation a mechanism to establish a moratorium on new licenses to for-profit child care services, limiting public funding going forward to public and non-profit services.

This would be consistent with the provincial government's commitment to high quality and to the conception of many that child care is a public good, not a market commodity.

v. We are concerned with the implications of what has become a widespread practice in Ontario and elsewhere in Canada—that child care services regularly charge parents non-refundable fees to put their names on a waiting list—fees of $50, $100 or even more. This merely takes advantage of severe child care space shortages and offers yet one more barrier to access by low and modest income families.

We *strongly* recommend including in the legislation a clause that this practice will no longer be allowed.

Next steps to "modernizing" Ontario's child care situation

We argue that this legislation alone is not sufficient for the development and sustainability of the high quality early childhood education and child care system that Ontario desperately needs. We suggest that—while the reforms proposed address the most "egregious" (quoting the provincial Ombudsman) forms of unregulated child care—much more is needed to even begin to address children's basic safety

and protection, let alone the universal, high quality early childhood education and care that should be the hallmark of the Ontario Ministry of Education.

Arguably the most important way to tackle the problem of unregulated care is to build a real child care system; access to a range of regulated child care "choices" for parents is the flipside to leaving so many to rely on unregulated care as their only "choice". A recent ten country family child care study pointed out an obvious but often overlooked fact: "persistent and substantial use" of unregulated care is only an issue in countries without well-developed child care systems.

Ontario desperately needs such a system based on the principles of universal entitlement, high quality, and comprehensiveness. This will require not only vision and a well-designed policy framework with long-term goals, targets and timetables, but also political will and ongoing sustained funding. And now is the time to start. With child care finally back on the national agenda, there's no time like the present for the Ontario government to regain its leadership to move toward an accessible system of high quality child care.

Bill 10's Preamble, Purposes of the Act in 1 (1) and (2) and Provincial Interest in 49(1) are important sections that pave the way to a fuller set of solutions to Ontario's child care crisis. We are in strong general agreement with these sections.

Based on the kind of approach suggested in the Preamble, Purposes of the Act and the Provincial Interest section, we urge the provincial government to begin a full policy process to develop a robust, comprehensive policy framework that lays out the provinces' intentions, rationales, short and long-term plans, and funding and evaluation mechanisms.

We propose the format of a traditional White Paper process, to include research, development of policy rationales and options, meaningful consultation and participation of stakeholders.

We believe that the time has come for Ontario to assert leadership among the provinces and territories in the expectation of that a national ECEC system for Canada may be as close as the next federal election. As former federal Minister Ken Dryden, speaking to last week's 4th national child care policy conference Childcare 2020 observed: "2015 is a moment of opportunity".

We would look forward to working with the provincial government on such a task and urge that it begin without delay.