

SUBMISSION

THE LIEUTENANT GOVERNOR IN COUNCIL DRAFT REGULATION

made under the

Services and Supports to promote the Social Inclusion of persons with Developmental Disabilities Act, 2008

GENERAL

This submission is made on behalf of the National Association for the Dually Diagnosed – Ontario Chapter (NADD Ontario) and the Dual Diagnosis Implementation Committee of Toronto (DDICT).

NADD Ontario is a voluntary provincial association representing families and service providers who work in the health and developmental service sectors. We are concerned about the mental health of individuals with developmental disabilities. Our advocacy activities focus on service excellence through initiatives that support education and training directed to staff and families.

The Dual Diagnosis Implementation Committee of Toronto monitors policy developments and work plans related to system design and implementation undertaken by the Ministry of Community and Social Services, the Ministry of Health and Long Term Care and the Community Network of Specialized Care (CNSC). The Committee also supports and encourages cross sector, system and service delivery integration at a local, regional and provincial level.

Dual diagnosis in Ontario refers to people who have both a developmental disability and mental health needs.

Given the mandate of these two organizations, our response is focused on the ***implications of the Lieutenant Governor in Council Draft Regulation under Bill 77 for people with dual diagnosis.***

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Dual Diagnosis

In Ontario, **38%** of individuals with a developmental disability have a dual diagnosis.¹ In terms of actual numbers, this means that, out of 304,007 Ontarians with a developmental disability, **115,522** have a dual diagnosis.²

People with dual diagnosis have complex needs that require service across sectors, including, but not limited to, developmental, health and mental health services.

This submission analyzes the first draft regulation under Bill 77 from the perspective of the implications this regulation has for individuals with a dual diagnosis and/or challenging behaviour.

Specifically, this submission provides discussion points relative to draft regulation sections

- **2 (1)** and **2 (2)** which define "significant limitations in cognitive functioning", "habilitative support" and "habilitative support needs" for the purposes of subsection 3 (1) of the Act;
- **5** which defines the prescribed classes of services and supports within direct funding agreements for purposes of clause 11 (1)(b) of the Act; and
- **6**, which identifies required qualifications to conduct a diagnostic assessment for determining eligibility under subsection 14 (3) of the Act.

¹ Yu, D. & Atkinson, L. (1993, republished in 2006). Developmental disability with and without psychiatric involvement: prevalence estimates for Ontario. Journal on Developmental disabilities, Spring, p. 1 – 6

² Ibid

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RECOMMENDATION SUMMARY:

Recommendation 1

Given the expanded mandate for developmental services, additional investment of resources is required to support the increased assessment and service demands.

Recommendation 2

Updated intelligence testing is recommended only when the functioning level is ambiguous, or when determined by a psychologist or psychological associate that the available information is inadequate to determine eligibility.

Recommendation 3

NADD Ontario and DDICT recommend that all application entities must have access to a psychologist or psychological associate to fulfill Recommendation 2 above.

Recommendation 4

NADD Ontario and DDICT call for removal of the definition of "habilitative support needs" as it is redundant with the definition of "habilitative support", and is restrictive and exclusionary as currently defined.

Recommendation 5

If the reference cannot be removed, the following re-wording is recommended: "“habilitative support needs” means, in respect of a person, needs that are due to functional impairment."

Recommendation 6

NADD Ontario and DDICT advocate that opportunities for direct funding continue to be part of the range of residential options that are available to the sector to address the variety of supports required.

Recommendation 7

NADD Ontario and DDICT recommend that when a person does not meet cognitive limitations criteria for overall IQ (e.g., regulation 2(1)(1)), and requires a more nuanced and experienced assessment/clinical determination for the application entity (e.g., regulation 2(1)(2) and 2(1)(3)), the qualified psychologists or psychological associates identified as appropriate to complete assessments to determine eligibility under the Act, in addition to registration with the College of Psychologists of Ontario, would also have:

- **demonstrated experience and competencies in the assessment of individuals with significant limitations in cognitive functioning *and* mental health needs/challenging behaviours, *and in particular*, the impact of such difficulties on diagnosis, cognitive and adaptive functioning.**

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RECOMMENDATION SUMMARY cont:

Recommendation 8

NADD Ontario and DDICT recommend the establishment of a provincial process for ongoing training / consultation for psychologists and psychological associates who are providing diagnostic assessment services to the applications entities, to ensure consistent application of the eligibility criteria.

Recommendation 9

NADD Ontario and DDICT advocate that the following experience, knowledge, and skills be demonstrated by Staff hired by the application entities:

- **significant clinical experience as per MCSS definition of clinical expertise in relation to Community Networks of Specialized Care (e.g., behaviour therapy, social worker, nursing, psychology, speech and language, etc.) and/or**
- **significant experience with a range of developmental disabilities and complex needs (including mental health issues and their impact on cognitive, habilitative and adaptive functioning) and,**
- **experience working with multidisciplinary teams including psychology, psychiatry, medicine, and**
- **demonstrated experience in understanding and applying psychological test results to daily support.**

Recommendation 10

NADD Ontario and DDICT recommend the establishment of a provincial process for ongoing training of application entity staff, to ensure consistent application of the eligibility criteria.

Recommendation 11

NADD Ontario request to be included at the Partnership Table to provide the dual diagnosis perspective regarding policy directives to support the Legislation.

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1. Discussion and rationale for NADD Ontario and DDICT recommendations pertaining to:

Section 2 (1): Criteria for identifying "significant limitations in cognitive functioning" which defines *developmental disability* for the purposes of subsection 3 (1) of Bill 77.

This regulation addresses who is appropriate to receive services and supports within the Act. Regulation 2.(1) 2 and 3, in effect, broadens the mandate of current developmental services providers by expanding the definition of developmental disability beyond that currently defined in the Diagnostic and Statistical Manual (IV-TR). Criteria are introduced which allow for the population inclusion, for example, of those who have Asperger Syndrome, Fetal Alcohol Spectrum Disorders, and those with learning disorders specific to information processing who also have significant limitations in adaptive functioning. This will have implications on the demand for resources and thus increased costs for service provision.

Recommendation 1

Given the expanded mandate for developmental services, additional investment of resources is required to support the increased assessment and service demands.

Recommendation 2

Updated intelligence testing is recommended only when the functioning level is ambiguous, or when determined by a psychologist or psychological associate that the available information is inadequate to determine eligibility.

Recommendation 3

NADD Ontario and DDICT recommend that all application entities must have access to a psychologist or psychological associate to fulfill Recommendation 2 above. See also Recommendation 7 below.

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2. Discussion and rationale for NADD Ontario and DDICT recommendations pertaining to:

Section 2 (2): Definition for "habilitative support needs" for the purposes of subsection 3 (1) of Bill 77.

The draft regulation definition of “habilitative support needs” appears redundant with the definition of “habilitative support”, and the question arises as to the necessity of including the definition. Most importantly, the current language of the definition of *habilitative support needs* appears restrictive and exclusionary, by defining needs to be life-long and due to functional impairment caused by congenital injury or disease, or injury or disease acquired early in life. In some cases, the underlying aetiology of functional impairment is not known, and an underlying injury or disease may not be identified.

More relevant to the needs of people who have a dual diagnosis is the fact that mental health disorders typically first emerge in late adolescence and young adulthood, and therefore their habilitative support needs may not be interpreted to be 'acquired early in life' according to the definition provided within the regulation.

Furthermore, the occurrence and impact of mental health needs or challenging behaviour can be episodic, and therefore their habilitative support needs may not be interpreted to be 'life-long' according to the definition provided within the regulation.

People who have a dual diagnosis face a lifetime prevalence of vulnerabilities, and are at risk for increasing needs over the lifespan. It is assumed that the intention of Bill 77 is to include this group within the scope of the Act and subsequent policy directives, given that people with mental health needs / challenging behaviour in addition to a developmental disability comprise at least 1/3 to 1/2 of the developmental disability population.

Recommendation 4

NADD Ontario and DDICT call for removal of the definition of “habilitative support needs” as it is redundant with the definition of “habilitative support”, and is restrictive and exclusionary as currently defined.

Recommendation 5

If the reference cannot be removed, the following re-wording is recommended: ““habilitative support needs” means, in respect of a person, needs that are due to functional impairment.”

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3. Discussion and rationale for NADD Ontario and DDICT recommendation pertaining to:

Section 5: Prescribed classes of services and supports, which identifies services and supports that are available for direct funding agreements under clause 11 (1)(b) of the Act.

The question arises as to where residential supports fit in terms of prescribed classes of services and supports, and if not encompassed within the four currently listed classes, why residential supports are absent from the list of direct funding opportunities for families. It is the experience of families and those working with individuals with a dual diagnosis that frequently the ability to pull together funding from different sources can result in innovative and supportive environments to meet individualized residential options not otherwise available, such as has occurred through the Innovative Residential Model Initiative (IRMI).

Recommendation 6

NADD Ontario and DDICT advocate that opportunities for direct funding continue to be part of the range of residential options that are available to the sector to address the variety of supports required.

4. Discussion and rationale for NADD Ontario and DDICT recommendations pertaining to:

Section 6: Assessments, qualified persons, which sets the qualifications of those who can conduct assessments to determine whether a person has a developmental disability, and therefore determine eligibility under the Act.

The experience of the specialized teams supporting individuals with developmental disabilities and dual diagnosis or challenging behaviours is that psychologists have differing experience and training in relation to the assessment and diagnosis of this population, particularly with regard to individuals with more complex and unclear histories. This is particularly true of assessment of individuals with a dual diagnosis, pervasive developmental disorders (including autism spectrum disorder) or fetal alcohol

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spectrum disorders when functioning in the borderline range. If qualifications for conducting diagnostic assessments require only registration with the College of Psychologists of Ontario (e.g., a psychologist or psychological associate), this may result in inconsistencies and an over or under identification of individuals eligible for services within the Act, given the additional experience and knowledge required within this scope of practice.

Furthermore, there should be reference within the regulations regarding the required expertise of those hired by the access entities responsible for determining eligibility. Skills related to the interpretation of individual mental health histories as well as psychological testing results from previous assessments will enable appropriate additional assessments for those ambiguous situations.

Recommendation 7

NADD Ontario and DDICT recommend that when a person does not meet cognitive limitations criteria for overall IQ (e.g., regulation 2(1)(1)), and requires a more nuanced and experienced assessment/clinical determination for the application entity (e.g., regulation 2(1)(2) and 2(1)(3)), the qualified psychologists or psychological associates identified as appropriate to complete assessments to determine eligibility under the Act, in addition to registration with the College of Psychologists of Ontario, would also have:

- **demonstrated experience and competencies in the assessment of individuals with significant limitations in cognitive functioning *and* mental health needs/challenging behaviours, *and in particular*, the impact of such difficulties on diagnosis, cognitive and adaptive functioning.**

Recommendation 8

NADD Ontario and DDICT recommend the establishment of a provincial process for ongoing training / consultation for psychologists and psychological associates who are providing diagnostic assessment services to the applications entities, to ensure consistent application of the eligibility criteria.

Recommendation 9

NADD Ontario and DDICT advocate that the following experience, knowledge, and skills be demonstrated by Staff hired by the application entities:

- **significant clinical experience as per MCSS definition of clinical expertise in relation to Community Networks of Specialized Care (e.g., behaviour therapy, social work, nursing, psychology, speech and language, etc.) and/or**

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Recommendation 9 cont

- **significant experience with a range of developmental disabilities and complex needs (including mental health issues and their impact on cognitive, habilitative and adaptive functioning) and,**
- **experience working with multidisciplinary teams including psychology, psychiatry, medicine, and**
- **demonstrated experience in understanding and applying psychological test results to daily support.**

Recommendation 10

NADD Ontario and DDICT recommend the establishment of a provincial process for ongoing training of application entity staff, to ensure consistent application of the eligibility criteria.

A final recommendation:

Overlap between the current draft regulations and subsequent policy directives related to determining eligibility and assessing needs for services and supports, appears pertinent to recommendations 7-10 above. Additionally, the recent release of the updated Dual Diagnosis Guidelines are relevant to the implementation of Bill 77 as the next set of regulations and subsequent policy directives are developed.

Recommendation 11

NADD Ontario request to be included at the Partnership Table to provide the dual diagnosis perspective regarding policy directives to support the Legislation.

Respectfully submitted,

Mary Jane Cripps, Co-Chair
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The Dual Diagnosis Implementation Committee of Toronto



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