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## **REVIEW OF STATE OVERSIGHT OF ENTITIES PROVIDING ABA TREATMENT TO CHILDREN**

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### **Oversight Needed for Entities Providing ABA Treatment to Children**

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**FEBRUARY 3, 2025**

#### **STATE OF CONNECTICUT OFFICE OF THE CHILD ADVOCATE**

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## **I. INTRODUCTION**

The Office of the Child Advocate (“OCA”) is an independent government agency that is statutorily required to “[r]eview complaints of persons concerning the actions of any state or municipal agency providing services to children and of any entity that provides services to children through funds provided by the state . . . investigate those where the Child Advocate determines that a child or family may be in need of assistance from the Child Advocate or that a systemic issue in the state's provision of services to children is raised by the complaint . . . provide assistance to a child or family who the Child Advocate determines is in need of such assistance including, but not limited to, advocating with an agency, provider or others on behalf of the best interests of the child . . . [and] [e]valuate the delivery of services to children by state agencies and those entities that provide services to children through funds provided by the state.”<sup>1</sup> Concurrently, OCA is required to “[t]ake all possible action including, but not limited to, conducting programs of public education, undertaking legislative advocacy and making proposals for systemic reform and formal legal action, in order to secure and ensure the legal, civil and special rights of children who reside in this state.”<sup>2</sup>

In 2023, the Office of the Child Advocate (OCA) received concerns that entities providing Applied Behavioral Analysis (ABA)<sup>3</sup> services to children for lengthy periods of the day were not subject to licensure as child care centers. In particular, concerns were raised that children spend large portions of the day receiving services from such entities, in environments that are similar to child care settings and where parents are often not present, but without regulations designed to ensure the safety of children in child care settings and therefore without state oversight. In response to these concerns, OCA launched an investigation to determine whether children are spending significant amounts of time in such settings, what oversight is currently in place, and what gaps in oversight exist.

OCA found that, while there are laws, regulations, and policies that provide some oversight of aspects of entities providing ABA services to children, there is no overarching statutory or regulatory framework. This leaves significant gaps in oversight that may impact the safety and well-being of children receiving such services. For example, OCA found that there is no mechanism in law that allows DCF to notify ABA providers if an employee is placed on the DCF Child Abuse Registry. OCA recommends several specific statutory amendments, to be made as soon as possible, and a working group to develop recommendations for statutory and regulatory oversight.

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<sup>1</sup> Conn. Gen. Stat. § 46a-13l.

<sup>2</sup> Id.

<sup>3</sup> Applied Behavior Analysis (ABA) is “largely based on behavior and its consequences . . . [it’s] techniques generally involve teaching individuals more effective ways of behaving through positive reinforcement and working to change the social consequences of existing behavior.” Behavior Analyst Certification Board, *About Behavioral Analysis*. Retrieved January 27, 2025 from <https://www.bacb.com/about-behavior-analysis/#ABAFactSheets>.

## **II. METHODOLOGY**

OCA reviewed the applicable laws to understand what oversight currently exists in relation to providers of ABA services to children.

OCA conducted a review by requesting records from four ABA service providers confirmed to be billing Medicaid and believed to be providing services for full days. The four entities, spanning multiple locations, were examined for services provided in the summers of 2022 and 2023. Information requested of the programs included:

- a copy of any treatment or service plan for individuals who received services during the identified time period;
- a list of services provided under the treatment/service plan, including the type of service (e.g. Applied Behavioral Analysis, Occupational Therapy, Physical Therapy, Speech and Language) and the number of hours for each service provided per week;
- list of all services billed and identification of whether the service was billed to private insurance, Medicaid, a local education agency, or a parent (direct pay);
- number of hours the individual was physically present per week for delivery of the services;
- whether the individual (a) naps at the program (b) eats any meal at the program (c) eats any snack at the program (d) goes outside for social/play time or (e) leaves the facility for outings/field trips/social skills activities;
- a list of all staff (whether credentialed or not credentialed) including, for each staff person, the following: credentials (including any licensure), level of education, number of hours working, services provided by this staff person, and number of children serving;
- a copy of policies/procedures/practices related to any background checking completed as part of the hiring process; and
- copies of any and all checks of the DCF Registry and/or criminal background checks of all employees.

OCA also conducted several activities to cross reference information to identify gaps in information flow to ensure the safety of children. These include:

- OCA reviewed reports to DCF involving allegations of abuse and/or neglect by employees of the providers and cross-referenced such complaints with reports to OEC;
- Where BCBA were identified in a report to DCF, OCA checked DPH records to determine if any complaints were filed with DPH;
- Where staff were identified by the provider as BCBA, OCA checked the e-license database to confirm licensure, and if not licensed, checked the BACB website for certification;
- Where staff were identified as BCBA, but found not licensed, OCA reviewed evaluations to determine if these BCBA were evaluating children and identifying themselves as behavior analysts in those reports; and
- OCA cross-referenced employees of the entities with DCF LINK records to determine if any employees were listed on the DCF Child Abuse Registry.

- OCA inquired to DCF whether entities made requests for background checks through DCF.

### **III.     LEGAL FRAMEWORK**

The **Department of Children and Families (DCF)** is responsible for investigating allegations of child abuse and neglect. This includes allegations in which the perpetrator is a staff person in a child care center, group child care home, or family care home<sup>4</sup> or a person entrusted with the care of the child or youth.<sup>5</sup> When DCF receives any report, it must “determine if an allegation meets legal sufficiency as a report of suspected child abuse or neglect consistent with state statute, DCF policy and the Structured Decision Making (SDM) Screening Tool.”<sup>6</sup> If the report does not meet legal sufficiency, DCF will not accept the report. In accordance with Connecticut General Statutes §19a-80f, the Office of Early Childhood must be notified any time a report is made to DCF alleging that abuse or neglect occurred at a child care center, a group child care home, or a family child care home. When this occurs, OEC and DCF shall jointly investigate.

No entity can operate a child care center or group day care without a license.<sup>7</sup> The **Office of Early Childhood (OEC)** is responsible for licensing such entities and establishing requirements through regulation.<sup>8</sup> Such licensing requirements include important safety requirements such as background checks, physical plant requirements, staffing ratios, and sanitation requirements. In addition, OEC regulations require child care centers to have policies that prohibit the use of “abusive, neglectful, physical, corporal, humiliating or frightening treatment or punishment including, but not limited to, spanking, slapping, pinching, shaking or striking children, and physical restraint, unless such restraint is necessary to protect the health and safety of the child or others.”<sup>9</sup> The Commissioner of OEC (or delegated staff) must make an unannounced visit, inspection or investigation at least once per year.<sup>10</sup> In addition, the local health director must make an inspection at least once every two years.<sup>11</sup> If a child care operator has failed to comply with the law, the OEC may revoke the license; suspend the license until regulatory compliance is secured or conditions deemed necessary for the health, safety, and welfare of children are met; impose civil penalties; or place the license on probationary status and impose corrective measures.<sup>12</sup> The Commissioner of Early Childhood shall compile a listing of allegations of violations that have been substantiated by OEC and disclose such information to any person who requests it, provided it does not identify children or family members.<sup>13</sup> Information regarding child care licensing and inspections can be found on the 211 Child Care website.<sup>14</sup>

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<sup>4</sup> [Conn. Gen. Stat. §17a-101g\(a\).](#)

<sup>5</sup> “Person entrusted with the care of a child or youth” means a person given access to a child or youth by a person responsible for the health, welfare or care of a child or youth for the purpose of providing education, child care, counseling, spiritual guidance, coaching, training, instruction, tutoring or mentoring of such child or youth.” [Conn. Gen. Stat. § 17a-93\(15\); Conn. Gen. Stat. §17a-101g\(a\).](#)

<sup>6</sup> [DCF Practice Guide: Careline – 22-1PG.](#)

<sup>7</sup> [Conn. Gen. Stat. §19-80\(a\).](#)

<sup>8</sup> *Id.*

<sup>9</sup> [Conn. Regs. § 19a-79-3a\(d\)\(2\)\(b\).](#)

<sup>10</sup> [Conn. Gen. Stat. §19a-80\(b\)\(3\).](#)

<sup>11</sup> *Id.*

<sup>12</sup> [Conn. Gen. Stat. §19a-84.](#)

<sup>13</sup> [Conn. Gen. Stat. 19a-80f\(d\).](#)

<sup>14</sup> <https://www.211childcare.org/>

The **Department of Public Health (DPH)** licenses Board Certified Behavior Analysts (BCBA) pursuant to [Connecticut General Statutes § 19a-14](#) and [§ 20-185j](#). To be licensed as a BCBA in Connecticut, the individual must first receive certification from the [Behavior Analyst Certification Board](#) (BACB). Certification by the BACB requires a master's degree or higher, coursework, and fieldwork.<sup>15</sup> BCBAAs must comply with the [Ethics Code for Behavior Analysts](#) and must self-report to the BACB certain "critical information," including criminal charges or termination by an employer in response to a violation of any BACB ethics standard. Individuals who are certified by the BACB as BCBAAs may apply to DPH for licensure in the state of Connecticut. Individuals who are certified BCBAAs, but not licensed in Connecticut, may not practice behavior analysis, may not use the title "behavior analyst," and may not hold themselves out to the public as a behavior analyst.<sup>16</sup> DPH may deny an application for licensure for a number of reasons including the failure to comply with statutes or regulations governing the profession, felony conviction, or disciplinary action. Background checks for certain convictions are based on attestation by the applicant. DPH does not require completion of a DCF background check or check of the sex offender registry as part of their licensure process.<sup>17</sup> DPH may take disciplinary action against behavior analysts for, among other things, failure to conform to accepted practice standards of the profession; conviction of a felony; certain types of fraud or deceit; and negligent, incompetent, or wrongful conduct in professional activities.<sup>18</sup> Discipline may include, but is not limited to, requiring continued education, placing limitations on practice, imposing probationary status, and censure, civil penalties, suspension, or revocation of the individual's license.<sup>19</sup> When a BCBA is subject to discipline, this information is available on the e-license database. DPH does not license Registered Behavior Technicians, Board Certified Autism Technicians, or others non-certified staff who may be supervised by a BCBA in relation to the delivery of ABA services. DPH does not license or regulate facilities where ABA is provided or have the authority to investigate complaints regarding facilities in which these services are provided.<sup>20</sup>

#### IV. FACTUAL FINDINGS

##### Review of ABA Provider Data

Upon review of information received, OCA found that all services at all four entities were paid for by Medicaid or private insurance. None of the services were paid directly by the parent or a school district. All of the children were receiving ABA services. The number of hours dedicated to other services, such as Occupational Therapy, Speech Therapy, and Physical Therapy, was not substantial and therefore not included in the data below. Additionally, none of the entities went on field trips and only one entity reported outside play for the children.

<sup>15</sup> Board Certified Behavior Analyst Handbook, [chrome-extension://efaidnbmnnibpcajpcgclefindmka/jhttps://www.bacb.com/wp-content/uploads/2022/01/BCBAHandbook\\_240925-a.pdf](chrome-extension://efaidnbmnnibpcajpcgclefindmka/jhttps://www.bacb.com/wp-content/uploads/2022/01/BCBAHandbook_240925-a.pdf)

<sup>16</sup> Conn. Gen. Stat. § 20-185j.

<sup>17</sup> Conn. Gen Stat. §19a-14.

<sup>18</sup> Conn. Gen. Stat. §20-185m.

<sup>19</sup> Conn. Gen. Stat. §19a-17.

<sup>20</sup> DPH may look at activities and records in the facility that are relevant to their investigation of a licensed behavior analyst but has no authority to investigate or take action against the facility.

Entity <sup>21</sup>	Number of Children	Age Range in Years	Median Age	Range in Hours of Weekly ABA Services/ Child	Median Hours of Weekly ABA Services/ Child	During Service Hours, % Of Children who took Naps	During Service Hours, % Of Children who ate Snacks/Meals
<b>2022</b>							
Program 1	65	1 to 8	4	.5 - 41.6	23.9	0%	100%
Program 2	21	2 to 16	8	2 - 31.5	10	N/A <sup>22</sup>	N/A
Program 3	27	1 to 10	4.5	3 - 40	31.3	65% <sup>23</sup>	100% <sup>24</sup>
Program 4	21	2 to 15	5	1.92 - 29.3	10.6	Not recorded	Not recorded
<b>2023</b>							
Program 1	81	1 to 9	4	2.5 - 44.6	29.1	29.6%	80.2%
Program 2	17	3 to 10	4	2 - 23	9	N/A <sup>25</sup>	N/A
Program 3	39	1 to 11	4	5.5 - 40	37.5	63.3% <sup>26</sup>	92.3% <sup>27</sup>
Program 4	24	2 to 16	5	1.13 - 28.4	17.1	Not recorded	Not recorded

All four programs provided active treatment plans for the children. The quality and effectiveness of the treatment plans was not analyzed as that was not within the scope of this review. However, plans were reviewed for assessments conducted. All the entities reviewed utilized standardized assessment tools such as the VB-MAPP and Vineland Adaptive Behavior Scales. Each provided detailed data tracking correlating to the treatment plan, as would be expected when ABA services are provided. As medical service providers, the entities are required to provide certain documentation related to the delivery of medical services to Medicaid or private insurance companies in order to receive payment for services rendered.

In response to requests for staffing information, including levels of education and certifications, the vast majority of staff in each entity were identified as Licensed Board Certified Behavior Analysts, Registered Behavior Technicians, or Board Certified Autism Technicians. The remainder were identified as behavior technicians, without certification. For all individuals listed as licensed BCBAs, OCA checked the [Connecticut e-licensure database](#) and the [BACB's Certificant Registry](#). OCA found the following:

- One program reported having 16 BCBAs and all had active Connecticut licenses.
- One program reported having 7 BCBAs. Five had active CT licenses. One had active certification by the BACB and a license in Massachusetts, but was not currently licensed in Connecticut. OCA was unable to find the remaining one utilizing name checks on Connecticut's e-license site and the BACB's certification lookup site. This person was identified as a BCBA, LBA (licensed behavior analyst) in treatment documents.

<sup>21</sup> For entities with multiple locations, data was combined.

<sup>22</sup> This entity reported that it provides all services in the home and community, not in a facility.

<sup>23</sup> This entity responded not applicable for 7 of the 27 children. Not applicable responses are not included.

<sup>24</sup> This entity responded not applicable for 1 of the 27 children. Not applicable responses are not included.

<sup>25</sup> This entity reported that it provides all services in the home and community, not in a facility.

<sup>26</sup> This entity responded not applicable for 9 of the 39 children. Not applicable responses are not included.

<sup>27</sup> This entity responded not applicable for 3 of the 39 children. Not applicable responses are not included.

- One program had 8 staff listed as BCBAs. Of those, 3 had active Connecticut licenses, and 5 were licensed only in Massachusetts. Of the 5 licensed in Massachusetts, 4 were listed as BCBAs on treatment documents.
- One program listed 3 BCBAs. One was licensed in Connecticut. Two were licensed in New York, but not in Connecticut. One of the BCBAs licensed in New York was identified as a BCBA in treatment documentation. In addition, in a review of the treatment documentation, OCA noted four additional staff, who were not listed as current employees, who were identified in treatment documents as BCBAs but who were licensed only in Massachusetts.

### **Review of Employee Background Checks**

OCA found no state law that requires providers of ABA services to children conduct background checks for all of their employees.<sup>28</sup> OCA requested policies and procedures related to background checks of employees from the four entities. All of the entities required background checks as a condition of employment. One entity's policy required that background checks be repeated every two years, at a minimum, and that employees report subsequent incidents or convictions that may invalidate their prior background check. One entity's policy stated that, in addition to background checks of job applicants, background checks may be conducted on current employees for certain reasons, but did not require regular updates of background checks for all employees.

All of the entities produced copies of background checks for employees. These checks were conducted by third party companies that provide background check services. All of the background checks included state and federal criminal history. Some, but not all, included checks of the sex offender registry. One included checks of the federal Office of the Inspector General's List of Excluded Individuals/Entities, which has the "authority to exclude individuals and entities from federally funded health care programs for a variety of reasons, including a conviction for Medicare or Medicaid Fraud."<sup>29</sup> None of the documentation provided indicated checks of the DCF Child Abuse Registry. OCA requested information from DCF to determine if any of the entities conducted DCF Central Registry checks on their employees. There was no evidence that any of the entities requested checks of the DCF Central Registry.

OCA interviewed some providers regarding background checks. Providers indicated that the checks were conducted, in part, because it is best practice and, in part, because some insurance companies require it. Providers indicated that different insurance companies have different requirements. One provider indicated criminal history background checks were included to ensure that the applicant did not have a conviction that would make that person excludable under federal laws applicable to Medicaid. One provider indicated that the Department of Social Services (DSS) does require checks of the DCF registry for credentialed providers, which would

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<sup>28</sup> Federal law requires the exclusion of individuals and entities with certain convictions from participating in any federal health care program, such as Medicaid. [42 U.S.C. § 1320a-7](https://www.hhs.gov/medicaid/exclusions). Providers who accept Medicaid should routinely check the List of Excluded Individuals and Entities (LEIE) to ensure that new hires and current employees are not on the excluded list. United States Department of Health and Human Services, Office of the Inspector General, Exclusions Program, <https://oig.hhs.gov/exclusions/>. Accessed January 30, 2025.

<sup>29</sup> United States Department of Health and Human Services, Office of the Inspector General, Exclusions Program, <https://oig.hhs.gov/exclusions/>. Accessed January 30, 2025.

include licensed BCBAs but not other staff, and that DSS completes that check as part of their approval process. OCA verified with the DSS that DCF Child Abuse Registry checks are completed when BCBAs are enrolled as Medicaid providers.<sup>30</sup>

OCA cross-referenced employee lists from the providers with DCF records. OCA found one person who was substantiated for physical and emotional neglect and placed on the DCF Child Abuse Registry. This person has a related felony conviction. OCA was able to verify that the employer had completed a background check, including a check of the criminal history. The check occurred, however, prior to the date of the incident resulting in placement on the DCF Child Abuse Registry, arrest, and conviction. OCA alerted the employer of the need to immediately update its employee criminal history checks and conduct DCF Child Abuse Registry checks, and the employer agreed to update background checks to address this concern.

### **Review of Reports to DCF**

For each of the four entities, OCA reviewed any reports made to DCF for the 2022 calendar year and for the period between January 1, 2023 to October 1, 2023. During this time, there were a total of thirteen non-duplicate reports. Nine were not accepted for investigation and four were accepted. Of those that were accepted for investigation, none were substantiated. In relation to two of these reports, the employer reported to DCF that they terminated that person's employment.

In five cases, DCF documentation noted that OEC was to be notified, though such notification was not legally required under Connecticut General Statutes §19a-80f. OCA requested corresponding documentation from the OEC. Of the five cases, OEC received only one notification.<sup>31</sup> In that case, the caller to DCF referred to the provider as a "daycare" and reported allegations that a staff person was restricting food, making the child hold a plank position, and would yank and pull on the child. DCF initially determined that the allegations did not meet their definitions of abuse or neglect, noting that the child had no marks/bruises indicative of abuse, did not accept the report, and notified OEC.<sup>32</sup> DCF Careline noted that police had been notified,<sup>33</sup> the administration of the entity had been notified, and that it would notify OEC. The entity was not a licensed child care center. OEC investigated to determine whether the entity was operating an unlicensed child care center. OEC conducted an in person inspection. OEC observed 12 children and more than 10 staff. OEC was unable to substantiate operation of an unlicensed child

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<sup>30</sup> Federal regulations require the state Medicaid agency “[a]s a condition of enrollment, must require providers to consent to criminal background checks including fingerprinting when required to do so under State law or by the level of screening based on risk of fraud, waste or abuse as determined for that category of provider.” [42 C.F.R. § 455.434](#). Information on background checks required as part of Connecticut’s enrollment process can be found [here](#).

<sup>31</sup> Such notification was not required under the current statute, as the entities were not licensed child care centers, group child care homes, or family child care homes. DCF indicated that the language stating that OEC was to be notified is template language created at the initiation of the case based on the assumption that the entity is licensed by OEC and indicated that the agency would review how that documentation will be completed in the future. DCF acknowledged that there was no documentation regarding why OEC was not notified despite documentation that this would occur.

<sup>32</sup> Careline later reviewed the report, accepted it, investigated, and did not substantiate.

<sup>33</sup> OCA requested police reports and confirmed that the police were notified, the matter was investigated, and no charges were filed.

care center as the program was an ABA therapy provider and all children participating were referred by a medical provider. As a result, OEC could take no further action.

In two of the reports to DCF, a licensed BCBA was the alleged perpetrator of abuse/neglect. OCA requested from DPH any complaints regarding these providers. There were none.

## **V. SYSTEMIC FINDINGS**

Currently, entities providing ABA services to children fall into a legal gap in terms of oversight. While they provide care and treatment to unrelated children, they do not appear to fall within the definitions of child care centers requiring licensure, and thus are not subject to the safety requirements or regular inspections applicable to child care centers.<sup>34</sup> While there are some laws, regulations, and policies that provide some protection, such as background checks for BCBAAs, they are a patchwork. As a result, children with significant disabilities, many of whom are non-verbal, spend large portions of the week in environments that mirror child care centers in many ways, without the same level of oversight. Children in these environments are receiving ABA services from qualified staff to support the development of communication, social, and adaptive living skills, but this does not mean there is no potential for abuse or neglect or other safety concerns or that additional oversight is not necessary. OCA identified the following gaps in oversight:

- No state agency licenses the facilities, so there are no physical plant requirements to ensure the safety of children served there, and no state agency to receive and respond to complaints regarding the physical plant.
- No state agency inspects the facilities on a regular basis.
- There are no requirements in state law that all employees of entities providing ABA services to children undergo criminal background checks or checks of the DCF Central Registry. This is in contrast to state laws requiring comprehensive background checks for child care workers, including state and national criminal history and state child abuse registry.<sup>35</sup> It is also in contrast to state laws requiring schools to conduct criminal background checks and checks of the DCF child abuse and neglect registry as a condition of employment.<sup>36</sup> While background checks for BCBAAs are included in requirements for licensure (through attestation) and the Department of Social Services conducts checks of the DCF Child Abuse Registry as part of its Medicaid enrollment process, gaps remain. Most significantly, there are no statutorily required background checks for the many staff who are not licensed BCBAAs.
- While DCF is responsible for investigating allegations of abuse or neglect, certain conduct, such as humiliating discipline, may not rise to the level of abuse or neglect under DCF's operational definitions but still be improper in a child care setting. OEC does not have the authority to investigate such complaints as the entities are not licensed

<sup>34</sup> Child care center is defined as “a program of supplementary care to more than twelve related or unrelated children outside their own homes on a regular basis. Group child care home means “a program of supplementary care (A) to not less than seven or more than twelve related or unrelated children on a regular basis,” or (B) that meets the definition of a family child care home except that it operates in a facility other than a private family home.” [Conn. Gen. Stats. § 19a-77.](#)

<sup>35</sup> [Conn. Gen. Stats. § 19a-80\(c\) and § 19a-87b.](#)

<sup>36</sup> [Conn. Gen. Stats. §10-221d.](#)

child care centers. DPH has the authority to investigate complaints regarding BCBAs, but their authority is limited to BCBAs, and OCA found that for the two licensed BCBAs involved in allegations to DCF, no complaint was filed with DPH.

- No state agency regulates staff ratios, sanitation, or food service, as OEC does in relation to child care centers.
- There is no mechanism in law that allows DCF to notify DPH of a neglect/abuse allegation or substantiation involving a BCBA who works with children, even if the individual is placed on the DCF Central Registry. This is in contrast to state laws requiring DCF to notify the Commissioner of Education of the results of investigations involving a school employee and provide records concerning the investigation.<sup>37</sup>
- There is no mechanism in law that allows DCF to notify OEC or any other state agency if an individual employed by an entity providing medically necessary ABA services to children is substantiated for child abuse or neglect, even if this person is placed on the DCF Central Registry. This is in contrast to state laws that require DCF to notify OEC of allegations and substantiations involving child care centers, group child care homes, family child care homes, and youth camps, and staff of any such facilities, licensed by OEC.<sup>38</sup>
- There is no mechanism in law that allows DCF to notify an ABA service provider if an employee is substantiated for child abuse or neglect, even if this person is placed on the DCF Central Registry. This is in contrast to state laws requiring DCF to notify the employing Superintendent regarding allegations involving school employees.<sup>39</sup>
- While discipline findings regarding licensed BCBAs are available on e-license, this does not extend to the facility or non-BCBA staff. There is no mechanism in law to notify consumers of concerns about provider entities. This is in contrast to OEC's searchable public database through which consumers can review OEC's findings that a child care entity has violated laws or regulatory requirements.
- Licensed Behavior Analysts and Physical Therapists are mandated reporters pursuant to Connecticut General Statutes 17a-101, but other staff employed by an ABA service provider are not. This is in contrast to state laws making any school employee and any person paid to care for a child in any public or private facility, child care center, group child care home or family child care home licensed by the state mandated reporters.<sup>40</sup>

It is paramount that these gaps be addressed. This will require the creation of a statutory and regulatory framework. Such an endeavor will require input from relevant state agencies, service providers, parents, and advocates and is best addressed by a legislative task force. OCA cautions policymakers that ABA is a critically important intervention for children with Autism Spectrum Disorder. For some children, intensive ABA services, sometimes as much as forty hours per week, is medically necessary. This review is not a critique of the delivery of ABA services, nor is it a critique of the providers or the quality of ABA treatment provided. OCA did not assess the quality of the delivery of ABA services in this review. Rather, the focus of OCA's investigation was to determine whether children spend a significant amount of time (similar to child care

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<sup>37</sup> [Conn. Gen. Stats §17a-101i.](#)

<sup>38</sup> [Conn. Gen. Stat. §19a-80f.](#)

<sup>39</sup> [Conn. Gen. Stat. §17a-101b and 17a-101i.](#)

<sup>40</sup> [Conn. Gen. Stat. 17a-101\(b\).](#)

centers) in these settings, review the current mechanisms for oversight, and to make recommendations to policymakers.

## **VI. RECOMMENDATIONS**

1. State statutes should be immediately amended to require:
  - a. that individuals seeking licensure as a BCBA undergo a comprehensive background check to include (A) criminal history record checks pursuant to section 29-17a, (B) check of the state child abuse registry established pursuant to section 17a-101k, (C) check of the registry established and maintained pursuant to section 54-257, and (D) check of the National Sex Offender Registry Public Website maintained by the United States Department of Justice;
  - b. DCF to notify DPH of the results of investigations involving a licensed BCBA. This should be modeled after Connecticut General Statutes 17a-101i (related to notifications of allegations involving school employees);
  - c. that all individuals working under the supervision of a licensed behavior analyst working with children be mandated reporters; and
  - d. that all ABA service providers be required to provide patients, or their parents/legal guardians, information on how to report concerns about BCBAAs to the Department of Public Health, with the CT license number for any BCBA serving their child.
2. A task force should be convened to consider the findings in this report and make recommendations regarding a statutory and regulatory framework for the entities described in this review. The task force should include, but not be limited to, the Office of Early Childhood; the Department of Public Health; the Department of Social Services; and the Department of Children and Families; the Department of Developmental Services; the State Department of Education; the Office of the Child Advocate; a parent of a child with Autism; an organization dedicated to advocacy for children with Autism; and experts in the delivery of ABA services to children with Autism Spectrum Disorder, including a psychiatrist and a Board Certified Behavioral Analyst.
3. In addition to the findings in this report, the task force should consider, among other things, the following:
  - a. a hybrid approach to ensure that the agencies providing oversight have the necessary expertise in both the provision of child care and the provision of ABA to children with Autism Spectrum Disorder;
  - b. statutory changes to require that all employees of ABA service providers be mandated reporters; and

- c. statutory changes to require that all employees of ABA service providers receive background checks, including criminal background checks, a check of the DCF child abuse and neglect registry, and a check of the sex offender registry, at the time of initiation of employment and annually.
- 4. Any framework adopted should be cognizant of the critical importance of ABA services and should not be overly burdensome or costly. The purpose should be to ensure the safety and proper care of children.
- 5. DCF should review practices for documenting when notification to OEC is required and decisions that such notification is not required. DCF should conduct an audit of allegations involving staff at child care centers, group child care homes, or family child care homes to ensure that required notifications were made. DCF should develop performance standards and/or quality assurance measures to ensure all notifications are made, consistent with statutory requirements.
- 6. All ABA services providers should voluntarily conduct criminal background checks and checks of the DCF Central Registry of current employees, if they have not already done so, and should update checks annually. Consent forms for conducting check of the DCF Central Registry can be found here: [Child Protective Services Background Check](#).