



# Annual Report

2021-2022

# HALCO

**HIV & AIDS Legal Clinic Ontario**

Free legal services for people living with HIV in Ontario

**The HIV & AIDS Legal Clinic Ontario (HALCO) is a not-for-profit charitable organization founded in 1995.**

### HALCO's Mission

The mission of HALCO is to provide legal services to persons living with HIV in Ontario that are relevant to their well-being and that enable them to participate fully in the communities in which they live.

### HALCO's Vision

HALCO's vision is a society where laws and the legal system help reduce discrimination, stigma, poverty and injustice faced by people living with HIV.

### HALCO's Statement of Principles

It is agreed that:

1. People living with HIV are confronted with unique legal problems of enormous proportions and complexity;
2. Those best equipped to make choices regarding HIV issues and problems are those individuals who are HIV positive themselves;
3. People living with HIV must have control over their own lives;
4. The HIV affected communities are very diverse and are confronted by overwhelming challenges derived from both their diversity and from their common experience as people living with HIV;
5. It is necessary to create and foster a climate of understanding and mutual respect for the dignity and worth of people living with HIV; and
6. The confidentiality, bodily security, autonomy and privacy of people living with HIV must be respected, which include but are not limited to:
  - a. the right of individuals to exercise control over their own medical treatment;
  - b. the right of individuals to exercise control over decisions concerning their own socio-economic position;
  - c. the right of all persons living with HIV to be fully informed of all processes and procedures in which their interests are in any way involved; and
  - d. the right of all persons living with HIV to consent, or withhold their consent, in all matters affecting them.

## Message from the Chair and Executive Director

On behalf of the board of directors and staff of the HIV & AIDS Legal Clinic Ontario (HALCO), we are very pleased to provide our annual report for the period of April 1, 2021, to March 31, 2022.

The second year of the pandemic proved to be an incredibly difficult year. Fear and uncertainty remained the order of the day, with no end in sight. And as the year before, those feeling the brunt of the pandemic were groups of people over-represented among those living with HIV.

However, also like the year before, people came together. New partnerships came to life, new ideas flourished, and people took care of each other while also fighting for systemic change. Along with people living with HIV and colleagues such as other legal clinics and human rights organizations, HALCO continued to respond to issues facing communities of people living with HIV. For example, we assisted with over 2,200 legal issues, conducted over 45 video workshops, and intervened in four matters at the Supreme Court of Canada. We also provided submissions to governments on privacy law and immigration law and continued work on an upcoming report (to be released in fall 2022) that provides recommendations to improve access to justice for trans people.

Your ongoing support of and participation in our activities is invaluable and warmly appreciated. Highlights of some of the activities of HALCO's busy year are outlined in the pages that follow.

Shaz Islam

**Chair, Board of Directors**

Ryan Peck

**Executive Director, Barrister & Solicitor**

## Casework

Since opening our doors in 1995, our primary focus has been direct legal services for people living with HIV in Ontario. Referred to as “casework,” these services are comprised of intake (summary advice, brief services and referrals) and representation services. Our areas of legal practice include:

- Income Maintenance
- Tenancy
- Immigration/Refugee
- Human Rights
- Privacy
- Health
- Employment
- HIV-related prison matters
- Insurance

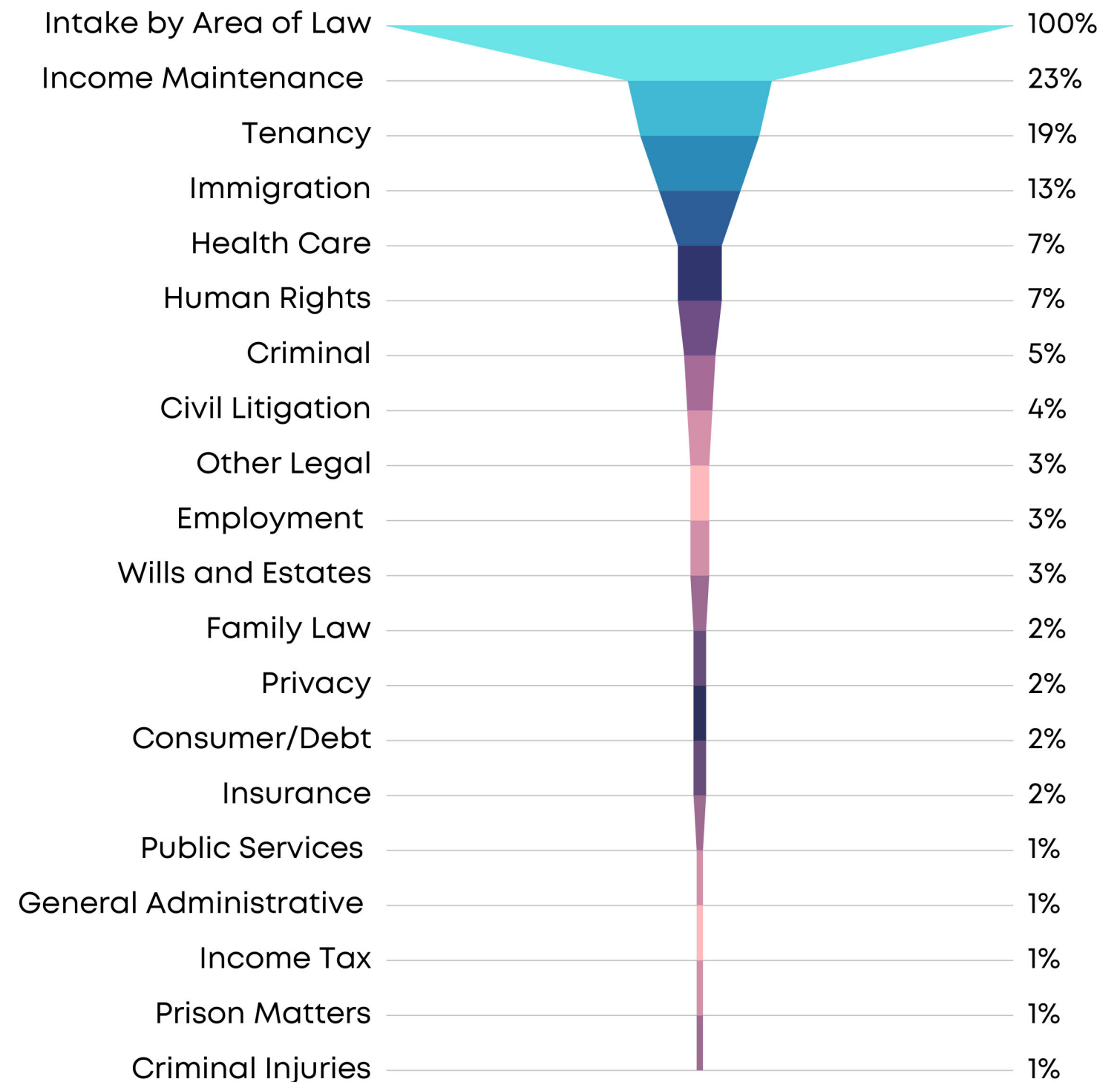
### Intake - Advice, Brief Services and Referrals

HALCO continues to devote much of its resources to intake services, which are available free of charge to all people living with HIV in Ontario.

We handled 2,245 legal issues in this reporting period. Income maintenance issues comprised 23% of intakes, tenancy matters 19% and immigration/refugee matters 13%. The remainder were extremely varied, including health, human rights and privacy law matters.

The chart on the next page provides a breakdown of HALCO’s intake services for the reporting year:

## HALCO intake services by area of law ( April 1, 2021 to March 31, 2022 )



## Representation

In addition to intake services, HALCO staff provide legal representation to financially eligible people living with HIV in Ontario. For this reporting period, we opened 153 case files. A case file may be opened to handle a legal matter for an individual (e.g., representation at the Human Rights Tribunal of Ontario or Social Benefits Tribunal) or it may be a test case with the potential to benefit many people living with HIV.

Immigration/refugee issues comprised 32% of our casefiles, income maintenance matters 21%, and tenancy matters 18%. We also assisted clients with various other legal issues, including human rights and health law issues.

### Casework examples include:

- assisted clients to navigate the interactions between COVID-19 benefits and other benefits (e.g., Ontario Disability Support Program, Canada Pension Plan)
- assisted clients to transfer social housing units based on human rights grounds
- assisted clients to obtain confidentiality orders before courts and tribunals so they can engage with the legal system without fear of their HIV positive status being disclosed publicly
- assisted a client to negotiate a contract tracing process with public health authorities that ensured the confidentiality of their personal information
- assisted a client to obtain reinstatement of employment after employer failed to recognize their immigration status

## Law Reform and Community Development

HALCO continuously strives to improve laws and the legal system to better meet the needs of people living with HIV. Our law reform activities seek to involve as many and as broad a range of individuals living with HIV as possible. For example, we intervene in court matters, provide submissions to governments, participate in campaigns, and take part in working groups (e.g., HIV Outpatient Clinic Network, Legal Aid Ontario Board of Directors' Clinic Law Advisory Committee).

Our primary law reform activities during this reporting period focused on (i) criminalization of HIV non-disclosure; (ii) privacy rights; and (iii) health and human rights.

In addition to these core activities, which are explained in more detail below, examples of law reform and community development activities included the following:

- Continued working with the Canadian Bar Association on the production of a report that includes recommendations to address the legal needs of trans people in Canada (report to be released in fall 2022)
- Provided a submission to the Ontario government regarding the modernization of privacy laws
- Appeared as an intervenor in a Supreme Court of Canada case regarding the legal test for public interest standing, the mechanism by which public interest organizations engage in litigation on behalf of groups of people
- Prepared materials for an intervention in Superior Court (Ontario) in order to challenge the criminal laws that place sex workers in danger
- Met with the National Judicial Institute to discuss training topics for judges

## Criminalization of HIV Non-disclosure

Canada continues to be a place where people living with HIV are unjustly and overcriminalized. There have been more than 225 prosecutions in Canada, the overwhelming majority taking place after 2004. While the number of prosecutions has thankfully decreased in recent years, Canada remains the only country known to use aggravated sexual assault charges in relation to HIV non-disclosure, even when (i) there is no allegation of transmission of HIV; (ii) there is no intention to transmit; and (iii) the sexual activity in question poses negligible to zero risk of transmission.

The consequences related to HIV criminalization, which have a disproportionate impact on Indigenous, Black, and gay persons, are extremely serious. For example, a conviction leads to a maximum life sentence and presumptive lifetime inclusion on sex offender registries. In addition, for those who are not Canadian citizens, a conviction generally leads to deportation.

Over-criminalization is also harmful from a public health perspective. It hinders HIV prevention efforts and hampers care, treatment, and support for those living with HIV by providing disincentives for HIV testing and deterring honest and open conversations with health care and other providers, including public health authorities, for legitimate fear that such conversations will be used in court.

HALCO, in conjunction with people living with HIV and other stakeholders, continues to play a leading role in efforts to reform the law. To ensure that the law is informed by up-to-date science and human rights principles, we continue, among other activities, to:

- provide legal assistance to people living with HIV
- work with criminal lawyers to ensure the best possible representation for people
- produce public legal education materials and conduct public legal education workshops for people living with HIV, service providers, students, and others
- intervene in matters of importance in courts across Canada
- engage with Ontario and federal governments on law reform

In order to bring about legal reform, we continued to do our utmost to convince courts to change the current overbroad and unjust approach to HIV criminalization. For example, over the past year, we continued working with private bar lawyers who successfully appealed an HIV-related conviction. We also intervened in three cases at the Supreme Court of Canada. In *R. V. N.*, we argued that the law requiring mandatory inclusion on the national sex offender registry, after convictions for certain sexual assault offences, including those related to HIV, is unconstitutional (decision pending). In *R. V. S.*, we argued that the law restricting sentencing options (i.e., not permitting conditional sentences, sometimes referred to as “house arrest”) of people convicted of certain offences, including HIV-related offences, is unconstitutional (decision pending). In *R. V. K.*, the Supreme Court of Canada considered how the criminal law of sexual assault applies to situations of condom removal or refusal. The Court decided that failing to comply with a sex partner’s insistence on condom use can be sexual assault, and that (in line with our argument) this approach does not expand the scope of criminalization of HIV non-disclosure.

While appearing before courts is essential, it remains clear that legislative reform is required to bring the law in line with science and human rights. To make this a reality, we continued to work on legislative reform to the *Criminal Code*. With the Canadian Coalition to Reform HIV Criminalization, we consulted with people living with HIV on an approach to *Criminal Code* reform that removes HIV-non disclosure from the reach of sexual assault laws and limits prosecution to cases of intentional and actual transmission. The government subsequently announced a consultation on reform taking place in the fall of 2022.

With people living with HIV and others, we will continue to fight to ensure that the law is brought in line with science and human rights in a manner that is supportive of HIV-related care, treatment, support and prevention.

## Immigration and Refugee Law

Immigration and refugee law services are particularly vital for specific communities of people living with HIV who may be marginalized due to complex and intersecting issues of HIV, racism, poverty, sexual orientation, gender, gender expression, immigration status, and/or experiences of violence. These issues compound the already complicated needs of people who may be “medically inadmissible” under Canada’s immigration laws. Gaining and maintaining access to life-saving medications adds an additional layer of vulnerability for immigration clients. Serious issues also arise at the intersection of immigration law and the criminalization of HIV non-disclosure. As noted above, the criminalization of HIV has a strong racialized element, and those convicted who are not Canadian citizens, even if they have lived in Canada for many years, almost always face deportation.

HALCO, the Legal Network, and many other disability and migrant rights organizations have long been calling for a full repeal of the medical inadmissibility regime. Under the *Immigration and Refugee Protection Act (IRPA)*, foreign nationals are inadmissible to immigrate to Canada if their health condition might reasonably be expected to cause an “excessive demand” on health or social services, or if their application to immigrate includes a family member in this situation. IRPA defines “excessive demand” as a need for health services that exceeds the cost of health services for the average Canadian. While medical inadmissibility does not apply to refugees or all immigrants, it does impact many people living with HIV.

## Health and Human Rights

While changes made in 2018 to excessive demand in relation to medical inadmissibility — and in particular the decision to raise the cost threshold by threefold — are a step in the right direction, the excessive demand regime (i) still violates the *Canadian Charter of Rights and Freedoms*; (ii) contributes to stigma and discrimination against people with disabilities, including people living with HIV; (iii) is inconsistent with international human rights law and Canada’s obligations pursuant to such law; (iv) is a cumbersome and inefficient process to administer; and (v) undermines the objectives of the *Immigration and Refugee Protection Act (“IRPA”)*. Incremental changes will not resolve these problems. As we have consistently done, during this reporting period we again urged the Government of Canada to repeal the excessive demand regime altogether (which is aligned with recommendations made by the Standing Committee on Citizenship and Immigration).

Since the beginning of the HIV epidemic, confidentiality, bodily security, privacy, and autonomy has been central to the HIV movement. This includes the right to access health care services free of stigma and without discrimination. In this reporting year, we engaged in a number of initiatives at the intersection of health and human rights. For example, we engaged in a follow-up consultation with the Law Commission of Ontario in relation to their Last Stages of Life report, which considers legal and policy issues associated with matters such as palliative care, end-of-life care, and medical assistance in dying.

In addition, we provided input into Ontario’s new HIV testing guidelines to ensure that informed consent and privacy remain central. We also submitted a grant proposal (accepted after the end of the reporting year) with academic colleagues for funding to explore the “blood pathway” (e.g., collection, storage, access, use) that takes place when someone is tested for HIV as well as in relation to viral load testing.

While we know that people living with HIV who have access to sustained care and treatment have more or less the same life expectancy as those who are HIV negative, the distressing reality is that many people, including those in Ontario, face significant institutional, social and economic barriers to such access. In response, we continued our advocacy through participation on the steering committee and working groups of a project focused on universal access to HIV medications in Ontario.

## Public legal education

HALCO staff provide information in print, online and in-person to help people understand legal issues, advocate for themselves, and seek broader social change. For this reporting period, we conducted 48 video workshops across the province and worked on various other public legal education projects. Issues surrounding the criminalization of HIV and public health law comprised approximately 27% of our workshops and immigration and refugee law comprised 15%. The remainder related to other legal issues including privacy, income maintenance and human rights law.

HALCO staff spoke throughout Ontario to audiences including people living with HIV, AIDS service organization staff, legal service providers, students, and health care providers. We also widely shared written information, and our website remained popular (103,107 visits).

We continued to engage in outreach to various communities of people living with HIV, as well as to service providers and others. For example, among many other events, we spoke at events run by AIDS services organizations, the Law Society of Ontario, the Canadian Association of Refugee Lawyers, the Lincoln Alexander Law School at Metropolitan Toronto University, and the Joint Centre for Bioethics at the University of Toronto. In conjunction with the Ontario HIV Treatment Network and the University of Toronto, we held a series of workshops with racialized students, and we spoke to a group of prospective HIV healthcare providers in Thunder Bay.

In addition, we co-sponsored a consultation with Communities, Alliances and Networks (formerly known as the Canadian Aboriginal AIDS Network) and the HIV Legal Network on HIV criminalization, and obtained funding to work with Indigenous and Black communities on the development of public legal education materials focused on HIV criminalization. We were also coauthors on a publication focusing on the harms of sex offender registries for people living with HIV convicted of HIV-related offenses, as well as on abstracts accepted by the International AIDS Conference and Canadian Association of HIV Research conference. In addition, we created pamphlets on new pathways to permanent residency for essential workers and international students, as well as on new Ontario funding for students, children and youth.

## 2021-2022 Board of directors and staff

### Board of Directors

- Noah Aiken-Klar
- Ower Alexander Alberto
- Skylar Louttit, *Secretary/ Treasurer*
- Sari Feferman, *Vice Chair*
- Shazia Islam, *Chair*
- Robert Maich
- Maureen Owino
- Eric Peters
- Shakir Rahim

### Staff

- Glenn Betteridge, *Staff Lawyer*
- Edward Carroll, *Staff Lawyer*
- Avi Cheema, *Staff Lawyer*
- Ahmad Ezzeddine, *Administrative Assistant*
- Sherifa Hadi, *Staff Lawyer*
- Mel Hyde, *Intake/Legal Assistant*
- Robin Nobleman, *Staff Lawyer*
- Ryan Peck, *Executive Director/Lawyer*
- Debbie Rachlis, *Staff Lawyer*
- Amy Secord, *Director of Administration*
- Amy Wah, *Staff Lawyer*



## Donors and funders

The generosity of donors and funders enables us to provide legal services to the HIV community. We sincerely thank all of the individuals who provided donations as well as the following funders:

### Core Funders:

- Legal Aid Ontario
- Ontario Ministry of Health and Long-Term Care

### Funding Partners:

- M·A·C AIDS Fund
- ViiV Health Care

## Thanks

Thanks also to the following people who generously provided their time:

Ranjan Agarwal  
 Mark Blans  
 James Bray  
 David Brennan  
 Daniel Brown  
 Matt Cohen  
 Wayne Cunningham  
 Neil Evans  
 Matt Gourlay  
 William Hébert  
 Julie James  
 Danny Kastner  
 Ewa Krajewska  
 Notisha Massaquoi  
 Alexander McClelland  
 Colleen McKeown  
 Nicole Nussbaum  
 Amanda Ross  
 Roger Rowe  
 Megan Schwartzenruber  
 Leah Shafran  
 Jonathan Shime  
 Megan Steeves  
 Lori Stoltz  
 Vinidhra Vaitheeswaran



## Report of the independent auditor on the 2022 summarized financial statements

### To the Members of HIV & AIDS Legal Clinic (Ontario)

The accompanying summarized financial statements, which comprise the summary statement of financial position as at March 31, 2022, and the summary statement of operations and changes in fund balances for the year then ended, and the related notes, are derived from the audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the same period. We expressed a modified audit opinion on those financial statements in our report dated July 25, 2022. Those financial statements, and the summarized financial statements, do not reflect the effects of events that occurred subsequent to the date of our report on those financial statements.

The summarized financial statements do not contain all the disclosures required by Canadian accounting standards for not-for-profit organizations. Reading the summarized financial statements, therefore, is not a substitute for reading the complete audited financial statements of HIV & AIDS Legal Clinic (Ontario).

### Management's Responsibility for the Summarized Financial Statements

Management is responsible for the preparation of a summary of the audited financial statements in accordance with the basis described in Note 1 to the summarized financial statements.

### Auditor's Responsibility

Our responsibility is to express an opinion on the summarized financial statements based on our procedures, which were conducted in accordance with Canadian Auditing Standard (CAS) 810, "Engagements to Report on Summary Financial Statements".

### Opinion

In our opinion, the summarized financial statements derived from the complete audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the year ended March 31, 2022 are a fair summary of those financial statements, in accordance with the basis described in Note 1 to the summarized financial statements. However, the summarized financial statements are misstated to the equivalent extent as the audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the year ended March 31, 2022.

The misstatement of the audited financial statements is described in our qualified opinion in our report dated July 25, 2022. Our qualified audit opinion is based on the fact that, in accordance with Section 3065 of the Canadian accounting standards for not-for-profit organizations, in instances where a tenant lease provides for periodic step-rate increases in rent over the lease term, the total amount of rent to be paid under such lease is to be accounted for on a straight-line basis over the term of the lease. In addition, where a tenant lease provides an inducement to the lessee, the total value of the inducement is also to be accounted for on a straight-line basis over the term of the lease. The organization's financial statements do not reflect these adjustments for periodic step-rate increases in rent or tenant inducements. This departure from Canadian accounting standards for not-for-profit organizations results in an understatement of expenses by \$1,469 and liabilities by \$43,585, and accordingly, an overstatement of revenues over expenses and fund balances, end of year, by \$42,116. Our qualified audit opinion states that, except for the effects of the described matter, those financial statements present fairly, in all material respects, the financial position of HIV & AIDS Legal Clinic (Ontario) as of March 31, 2022, and the results of its operations and cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.



Chartered Professional Accountants  
Licensed Public Accountants

Richmond Hill, Ontario  
September 9, 2022

## Note to the summarized financial statements (March 31, 2022)

### Basis of preparation

These summarized financial statements are derived from the complete annual audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the year ended March 31, 2022, which were prepared in accordance with Canadian accounting standards for not-for-profit organizations.

A copy of the complete audited financial statements is kept on file at HIV & AIDS Legal Clinic (Ontario) and can be provided upon request.

The set of criteria applied by management in preparing these financial statements is outlined in the paragraph below.

The figures presented in these summarized financial statements agree with or can be recalculated from the figures presented in the complete audited financial statements. Management believes that the summarized financial statements contain the necessary information and are at an appropriate level of aggregation so as not to be misleading to the users.

# Summarized Audited Financial Statement

for period April 01, 2021 to March 31, 2022

## HIV & AIDS LEGAL CLINIC (ONTARIO) Statement of Financial Position March 31, 2022

	LAO Operating Fund (Unrestricted)	MOH AIDS Bureau Fund (Externally Restricted)	LAO Legal Disbursements Fund (Externally Restricted)	Donations Fund (Internally Restricted)	Project Funding Fund (Externally Restricted)	2022 Total	2021 Total
<b>ASSETS</b>							
<b>CURRENT</b>							
Cash	\$ 6,281	\$ 4,452	\$ 6,549	\$ 124,071	\$ 59,242	\$ 200,595	\$ 201,376
Short-term investments	-	-	-	54,810	-	54,810	54,809
Government remittances	14,489	-	112	-	-	14,601	12,607
Prepaid expenses	17,817	-	-	-	-	17,817	18,556
Interfund receivable	-	1,168	-	24,936	-	26,104	15,129
	38,587	5,620	6,661	203,817	59,242	313,927	302,477
<b>EQUIPMENT</b>	2,901	-	-	-	-	2,901	4,145
	\$ 41,488	\$ 5,620	\$ 6,661	\$ 203,817	\$ 59,242	\$ 316,828	\$ 306,622
<b>LIABILITIES AND FUND BALANCES</b>							
<b>CURRENT</b>							
Accounts payable and accrued liabilities	\$ 30,243	\$ 8,643	\$ 1	\$ -	\$ -	\$ 38,887	\$ 33,447
Deferred revenue	8,264	-	-	-	52,500	60,764	55,264
Interfund payable	25,340	-	587	-	177	26,104	15,129
	63,847	8,643	588	-	52,677	125,755	103,840
<b>FUND BALANCES (DEFICIT)</b>	(22,359)	(3,023)	6,073	203,817	6,565	191,073	202,782
	\$ 41,488	\$ 5,620	\$ 6,661	\$ 203,817	\$ 59,242	\$ 316,828	\$ 306,622

# Summarized Audited Financial Statement

for period April 01, 2021 to March 31, 2022

## HIV & AIDS LEGAL CLINIC (ONTARIO) Statement of Operations Year Ended March 31, 2022

	LAO Operating Fund (Unrestricted)	MOH AIDS Bureau Fund (Externally Restricted)	LAO Legal Disbursements Fund (Externally Restricted)	Donations Fund (Internally Restricted)	Project Funding Fund (Externally Restricted)	2022	2021
<b>REVENUE</b>							
Legal Aid Ontario - Direct receipts	\$ 909,762	\$ -	\$ 4,200	\$ -	\$ -	\$ 913,962	\$ 889,459
Legal Aid Ontario - Indirect receipts AIDS Bureau	46,775	-	-	-	-	46,775	9,335
Donations	-	339,072	-	-	-	339,072	339,072
Interest	12,021	-	-	4,667	-	16,688	20,042
	178	11	4	467	25	685	916
	968,736	339,083	4,204	5,134	25	1,317,182	1,258,824
<b>EXPENSES</b>							
Amortization	1,244	-	-	-	-	1,244	1,776
Communications	14,649	-	-	-	-	14,649	17,871
Equipment and maintenance	6,614	-	-	-	-	6,614	7,065
Fundraising development	-	-	-	665	-	665	88
Indirect payments	46,775	-	-	-	-	46,775	9,335
Legal disbursements Library	-	-	3,306	-	-	3,306	5,094
Occupancy	571	-	-	-	-	571	608
Professional dues	174,220	-	-	-	-	174,220	179,301
Project expenses	21,650	-	-	-	-	21,650	13,714
Salaries and benefits	-	-	-	-	-	-	877
Supplies and services Travel	657,691	336,583	-	-	-	994,274	984,463
	48,601	2,500	-	-	-	51,101	26,272
	2,132	-	-	-	-	2,132	1,055
	974,147	339,083	3,306	665	-	1,317,201	1,247,519
<b>EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES</b>	\$ (5,411)	\$ -	\$ 898	\$ 4,469	\$ 25	\$ (19)	\$ 11,305

# Summarized Audited Financial Statement

for period April 01, 2021 to March 31, 2022

## HIV & AIDS LEGAL CLINIC (ONTARIO) Statement of Changes in Fund Balances Year Ended March 31, 2022

	LAO Operating Fund (Unrestricted)	MOH AIDS Bureau Fund (Externally Restricted)	LAO Legal Disbursements Fund (Externally Restricted)	Donations Fund (Internally Restricted)	Project Funding Fund (Externally Restricted)	2022 Total	2021 Total
<b>FUND BALANCES (DEFICIT) - BEGINNING OF YEAR</b>	\$ (5,258)	\$ (3,023)	\$ 5,175	\$ 199,348	\$ 6,540	\$ <b>202,782</b>	\$ 199,988
Repayment of prior year surplus	(11,690)	-	-	-	-	<b>(11,690)</b>	(8,511)
Excess (deficiency) of revenue over expenses	(5,411)	-	898	4,469	25	<b>(19)</b>	11,305
<b>FUND BALANCES (DEFICIT) - END OF YEAR</b>	\$ (22,359)	\$ (3,023)	\$ 6,073	\$ 203,817	\$ 6,565	\$ <b>191,073</b>	\$ 202,782

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HIV & AIDS Legal Clinic Ontario

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 **2022 HIV & AIDS Legal Clinic Ontario**