



HALCO – HIV & AIDS Legal Clinic (Ontario)
65 Wellesley Street East, Suite 400
Toronto, Ontario, Canada M4Y 1G7

Telephone: 416-340-7790 / 1-888-705-8889
website: www.halco.org

Dignity. Equity. Justice.

Serving People with HIV/AIDS through Legal Advocacy.

HALCO remembers Gary Salter

[please see page 2]

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Gary Salter

Everyone at HALCO was extremely saddened to learn that **Gary Salter** passed away in May 2010. As a HALCO Board and Committee member, Gary was always keen to provide his perspective and have a lively debate about ideas. He believed in advocating for the rights of people living with HIV in Ontario, and did not like to take no for an answer. In addition, Gary was a generous volunteer who regularly helped out with administrative tasks like our newsletter mailing. Gary was often at HALCO, music headphones in place, diligently filling envelopes, applying labels, etc. Gary will be missed by all of us at HALCO. Our thoughts are with his wife Pat and their families.



The need for our services continues to grow

2010 has been another dramatic year for HALCO. It does not seem possible, but the demand for our services has continued to grow at an incredible rate. Up until 2006, we handled approximately 2,300 requests for direct legal services per year. By September 30, 2010, only three-quarters of the way through the year, we had already handled 3,342! In addition, our public legal education activities have increased exponentially since 2006.

HALCO 15th Anniversary Celebration and Annual General Meeting

Our 15th Anniversary Celebration and Annual General Meeting was held on September 27, 2010, at the Buddies in Bad Times Theatre in Toronto.

Professor John McCamus, Chair of Legal Aid Ontario, brought greetings from Legal Aid Ontario and a plaque to commemorate our anniversary.

The incredibly moving film ***Access Denied*** was screened. The film documents the experience of the late **James Kreppner** and **Dr. Gregory Robinson** in their quest to have solid organ transplant available for people who are living with HIV in Canada. Our first ever **Kreppner Awards** were presented to **Antonia Swann** (partner of **James Kreppner**) and **Dr. Gregory Robinson**. The Awards are named for the late **James Kreppner**, who was a long-time HALCO Board member and community activist.

Our guest speaker **Justus Zela** gave a stirring account of his experience as an accused in an HIV-related criminal trial.

In all, it was a very memorable evening!



“HALCO People”

HALCO Board:

Our skilled and dedicated volunteer Board members, the majority of whom are people living with HIV, are vital to our governance. Our current Board members are **Mark Blans, Michael Capp, Anne Marie DiCenso, Peter Gross, Gary Logie, Martha Mackinnon, Irene Mlambo, Robert Watkin** and **Jessica Whitbread**. We also sincerely thank **Believe Dhiwayo** and **Richard Sabourin** for their years of service on our Board.



HALCO Staff:

In March 2010, we were delighted to welcome **Amy Wah** as our new intake lawyer. Amy's range of experience and her commitment to social justice have made her a valuable member of the HALCO team.



Our staff are [in alphabetical order]:

- **Renée Lang**, Staff Lawyer
- **Rick Lobodzinski**, Administrative Assistant
- **Jill McNall**, Community Legal Worker
- **Bill Merryweather**, Director of Administration
- **John Nelson**, Staff Lawyer
- **John Norquay**, Staff Lawyer
- **Ryan Peck**, Executive Director/Lawyer
- **Amy Wah**, Staff Lawyer

HALCO Students:

Alexandra Mann started in July 2010 as our articling student for the 2010/2011 year. She brings a wide range of experience as well as a keen interest in social justice and a commitment to assisting clients. Her particular expertise in immigration law will be of great help to us and our clients. Welcome Alex!!

May El-Abdallah, a now third-year law student at the University of Toronto, worked with our staff immigration lawyer, John Norquay, during the summer of 2010. May was always willing to help out and her great sense of humour was appreciated by all. Thank you and good luck with everything May!



Dale Whitmore was our articling student for the 2009/2010. Dale's diligence in responding to the ever-increasing demand for services was most welcome. He also did some much needed reformatting on our website to improve navigation. After he finished his articles, Dale was hired as a Duty Counsel Lawyer with the Tenant Duty Counsel Program. We are very pleased that Dale is remaining in the "legal clinic system"!

It was a great pleasure to learn that **Karen Wheaton**, our 2008/2009 articling student, was hired as a Staff Lawyer at the Community Legal Clinic - Brant, Haldimand, Norfolk. We could not be more pleased that Karen too is remaining in the "legal clinic system". Another former HALCO articling student, **Andrew Hwang**, who was here in 2007/2008, is also in the legal clinic system as a Duty Counsel Lawyer with the Tenant Duty Counsel Program.

HALCO's New "Scent-Reduction Policy"

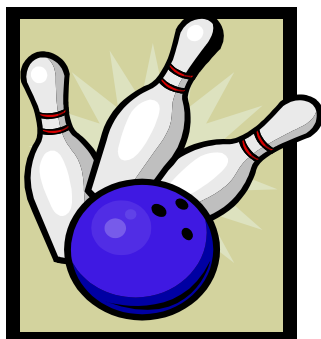
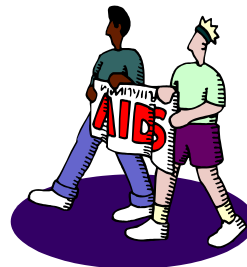


HALCO adopted its "Scent Reduction Policy" in June 2010 in recognition of the growing numbers of people who are sensitive to chemicals and scents. We ask that everyone avoid using chemical-based scented products when visiting our office.

Help us to make HALCO more comfortable for everyone.

HALCO Fundraising News

In its first year of implementation, HALCO had great success with its fundraising strategy, raising in excess of \$45,000 from a number of different sources. We continue to look for ways to increase and diversify funding for the clinic.



On August 15, we were once again the designated charity for the **Church Street Fetish Fair**. Thirty-five volunteers raised \$2,700 in donations from the fair's participants. We thank the **Church Wellesley Village Business Improvement Area** for the opportunity to raise funds at the event.

Upcoming activities include our second annual fundraising **Bowl-a-thon** on Saturday November 20 at 8:00 pm at Danforth Bowl, a direct mail campaign to the Toronto legal community in late fall, and, the submission of funding applications to numerous foundations and corporations.

If you are interested in our Bowl-a-thon or in being part of the dynamic fundraising team at HALCO, please contact Bill Merryweather, our Director of Administration, at 416-340-7790, ext. 42 or by e-mail at merryww@lao.on.ca

If you would like to make a donation to support the work we do, you can call us at 416-340-7790 or you can make an on-line donation through CanadaHelps on our website at www.halco.org/help.html

HALCO's New Public Legal Education Program



On September 17, 2010, we launched our new Public Legal Education Program with a special introductory session for AIDS service organization and legal clinic staff.

Beginning in the Fall of 2010, HALCO staff will be providing workshops on a variety of legal topics. The workshops will be held in our new Boardroom. The workshops are free and open to anyone who is interested, but space is limited so advanced registration is required (see page 5 for more information).

As always, we continue to provide workshops for groups or organizations, or in other locations, upon request.

HALCO Public Legal Education Workshop Schedule

	<i>HALCO Workshop:</i>	<i>Presenter:</i>	<i>Date & Time:</i>
1.	Criminalization of HIV Non-Disclosure: an update of the law and the campaign for prosecutorial guidelines	Ryan Peck, HALCO Executive Director & Lawyer	Wednesday Nov. 3, 2010 - 2 p.m to 4 p.m.
2.	HIV & Immigration Law	John Norquay, HALCO Immigration Lawyer	Tuesday Nov. 9, 2010 - 2 p.m to 4 p.m.
3.	Powers of Attorney, Wills and "Living Wills"	John Nelson, HALCO Staff Lawyer	Thursday Nov. 18, 2010 - 2 p.m to 4 p.m.
4.	Ontario Disability Support Program and You	Jill McNall, HALCO Community Legal Worker	Thursday Nov. 25, 2010 - 2 p.m. to 4 p.m.
5.	Introduction to Family Law and Family Law Legal Services	Emma Barz Legal Aid Ontario Family Law Duty Counsel Lawyer	Thursday Dec. 2, 2010 - 2 p.m. to 4 p.m.
6.	HIV & Private Insurance Issues	Renée Lang, HALCO Litigation Lawyer	Tuesday Dec. 7, 2010 - 2 p.m. to 4 p.m.

Space is limited so pre-registration is required.

To Register:

Provide your name, your contact information and the Workshop(s) that you wish to attend:

- E-Mail to talklaw@halco.org
- Phone **416-340-7790 / 1-888-705-8889**
- FAX to 416-340-7248

-If you require any accommodation (disability/communication), please let us know when you register.

Campaign for Prosecutorial Guidelines for HIV Non-Disclosure Allegations

The Ontario Working Group on Criminal Law and HIV Exposure "CLHE" has launched a campaign calling on Ontario's Attorney General to immediately undertake a process to develop guidelines for criminal prosecutors in cases involving allegations of non-disclosure of HIV status. We encourage you to endorse the Call to ensure a just, rational and consistent application of the law, based on science, not fear and misinformation. For more information about the campaign, and to endorse, please go to:

www.ontarioaidsnetwork.on.ca/clhe/

The Call is as follows:

We believe that the use of criminal law in cases of HIV non-disclosure must be compatible with broader scientific, medical, public health, and community efforts to prevent the spread of HIV and to provide care treatment and support to people living with HIV. While criminal prosecutions may be warranted in some circumstances, we view the current expansive use of criminal law with concern.

Campaign for Prosecutorial Guidelines *(continued)*

We therefore call on Ontario's Attorney General to immediately undertake a process to develop guidelines for criminal prosecutors in cases involving allegations of non-disclosure of HIV status.

Guidelines are needed to ensure that HIV-related criminal complaints are handled in a fair and non-discriminatory manner. The guidelines must ensure that decisions to investigate and prosecute such cases are informed by a complete and accurate understanding of current medical and scientific research about HIV and take into account the social contexts of living with HIV.

We call on Ontario's Attorney General to ensure that people living with HIV, communities affected by HIV, legal, public health and scientific experts, health care providers, and AIDS service organizations are meaningfully involved in the process to develop such guidelines.

For more information about the campaign, and to endorse, please go to:

www.ontarioaidsnetwork.on.ca/clhe/

New Criminalization of HIV Non-Disclosure Research

HIV non-disclosure and the criminal law: Establishing policy options for Ontario is a new report by Dr. Eric Mykhalovskiy, Glenn Betteridge and Dr. David McLay. The report offers the most comprehensive and up-to-date discussion of the criminalization of HIV non-disclosure in Canada. The report explores various forms of evidence relevant to a thorough policy consideration of the use of the criminal law in situations of HIV non-disclosure in sexual relationships. It recommends that the Ontario Ministry of the Attorney General establish a consultation process to inform the development of prosecution guidelines for cases involving allegations of non-disclosure of sexually transmitted infections, including HIV. The report includes:

- Canada's first systematic analysis of key trends and demographic patterns associated with criminal cases of HIV non-disclosure.
- An analysis demonstrating inconsistencies in how criminal courts in Canada handle HIV non-disclosure cases.
- A review and analysis of recent scientific research on the risk of the sexual transmission of HIV infection.
- Interview research that, for the first time, explores the impact of the criminalization of HIV non-disclosure on both people living with HIV/AIDS and those who work in HIV prevention and support.

The report was funded by the Ontario HIV Treatment Network, and was produced through a collaboration between York University and a number of AIDS service organizations.

The report can be found at:

www.ohtn.on.ca/Documents/Publications/HIV%20non-disclosure%20and%20the%20criminal%20law.pdf

Ontario Disability Support Program “ODSP” Updates

Social Assistance Review Advisory Council Report:

The Social Assistance Review Advisory Council [SARAC] submitted its report to the Minister of Community and Social Services. Here is a link to the Income Security Advocacy Centre ‘ISAC’ Social Assistance Review website: www.sareview.ca

ODSP/OW Rate Increase:

People receiving Ontario Disability Support Program “ODSP” or Ontario Works “OW” benefits will see a 1% increase in their basic benefits effective November 1, 2010, for ODSP and December 1, 2010, for OW. The Income Security Advocacy Centre website includes Social Assistance Rate Fact Sheets: www.incomesecurity.org/resources.html

ODSP/OW Special Diet:

Early in 2010, the Ontario government announced that it would be eliminating the Special Diet Allowance for people receiving Ontario Disability Support Program “ODSP” or Ontario Works “OW” benefits. The Special Diet Allowance is to be replaced with a Nutritional Allowance administered by the Ontario Ministry of Health and Long-Term Care, but there is still very little information yet. The Special Diet Allowance has not been eliminated yet, so if you are living with HIV and receiving ODSP/OW, you are still eligible Special Diet Allowance for wasting/weight loss conditions of between \$75 and \$240 diet (plus any additional diets to the maximum Special Diet Allowance of \$250.00 per month). **If you are living with HIV but not receiving a Special Diet Allowance or if your Special Diet Allowance has been cut, please call our office right away.**

Shared Accommodation:

Starting in August 2010, ODSP recipients who share housing with someone who is not part of their benefit unit can get the actual amount of their share of the housing costs, up to the maximum for the size of their household.

If you are living with HIV and you have any questions about ODSP, please call our office to speak with the caseworker on Intake.

“RDSPs” Registered Disability Savings Plans – a new saving option



Registered Disability Savings Plans “RDSPs” are a new saving option for people with disabilities who are under the age of 60 and who are eligible for the Disability Tax Credit. People who are eligible, and the parents or guardians of eligible minors, can open an RDSP at one of several financial institutions across the country. The federal government has a program to contribute bonds of up to \$1,000 and matching grants of up to \$3,500 to the RDSPs of people with low incomes. RDSP contributions, plans and withdrawals are fully exempt as both income and assets for Ontario Works and the Ontario Disability Support Program.

For more information about RDSPs:

www.hrsdc.gc.ca/eng/disability_issues/disability_savings/index.shtml

Immigration Law Updates

OHIP Eligibility:

In April 2009, the Ontario government added OHIP and Trillium Drug Program coverage for additional groups of newcomers, so the coverage now includes:

- holders of most types of Temporary Resident Permits (formerly known as Minister's Permits), including Temporary Resident Permits in cases of Medical Inadmissibility (see article below).
- holders of open work permits and their family members (this does NOT include refugee claimants still waiting for their hearing or decision).

Remember also that if you have "approval-in-principle" or "first stage approval" on either a Humanitarian and Compassionate grounds application ("H&C"), or a "Spouse or Common-Law Partner in Canada" sponsorship application, you are also eligible for OHIP and Trillium even before you get your permanent resident status. If your refugee claim or Pre-Removal Risk Assessment has been accepted, you are also eligible for OHIP immediately without having to wait to get your permanent resident status.

If you are living with HIV and have questions, please contact HALCO for more information about OHIP eligibility and immigration status.

"Medical Inadmissibility" and "Excessive Demand":

One of the immigration issues we deal with frequently at HALCO is known as "Medical Inadmissibility", which is the idea that a medical condition might make someone ineligible for immigration to Canada. Every person applying for permanent resident status in Canada, and some people applying to come to Canada to study or work temporarily, must go for a medical examination. The medical examination includes an HIV test. The purpose of the medical examination is to find out if the applicant is "medically inadmissible".

For people living with HIV, it is the high cost of anti-retroviral medication that sometimes leads to medical inadmissibility. The immigration laws refer to this kind of Medical Inadmissibility as "Excessive Demand", which means that Immigration Canada believes that health or social services costs for the person may be more than the average in Canada.

If you receive a letter from Immigration Canada that says you might cause an "Excessive Demand", it is very important to get legal advice right away. There are some ways that you may avoid having your application refused for Excessive Demand, including:

- showing that you have private insurance to cover the cost of your medications.
- showing that you are able to access medications in a way that avoids relying on the Ontario Drug Program or the Trillium Drug Program.
- asking for a special exemption or waiver from medical inadmissibility on humanitarian and compassionate grounds.

If you are living with HIV, please contact HALCO right away if you get a letter from Immigration Canada stating that you might be "Medically Inadmissible" or be considered to cause an "Excessive Demand".

It is very important to remember that "Excessive Demand" medical inadmissibility does not apply to refugees, persons accepted as being in need of protection, sponsored spouses/partners or sponsored dependent children.

Immigration Law Updates *(continued)*

Changes to Medical Examination Requirements for Live-In Caregivers:



On April 1, 2010, Immigration Canada made changes to the medical examination requirements for applicants who are part of the “Live-In Caregiver” Program. The Live-In Caregiver Program is a special program where people with particular training and/or experience get a work permit to travel to Canada to live with and take care of children, disabled or elderly people. After a minimum of two years of full-time work, the person is entitled to apply for permanent residence in Canada.

Under the old rules, Live-In Caregivers had to do an immigration medical exam before coming to Canada, and another examination at the time they applied for permanent residence. The second medical examination meant that many people who got infected with HIV while in Canada, or who developed other health conditions, would be denied permanent residence even though they may have worked here under the program for two years or more. The denials were based on “Excessive Demand” medical inadmissibility. (See “Medical Inadmissibility” article on page 8.)

As of April 1, 2010, Live-In Caregivers are no longer required to submit to an immigration medical examination at the time of their permanent residence application. If Immigration Canada finds out about a Live-In Caregiver’s HIV status, the new rules ask immigration officers to consider exempting the person from any Medical Inadmissibility on Humanitarian and Compassionate grounds.

This is good news for Live-In Caregivers already in Canada.

If you are a Live-In Caregiver who is living with HIV and you think the changes in the law might affect you, please contact HALCO for more information.



International Labour Organization New Labour Standard

The International Labour Organization “ILO” adopted an unprecedented new international labour standard on HIV and AIDS. It is the first international human rights instrument to focus specifically on HIV in the world of work. For more information, you can visit the ILO website:

www.ilo.org/global/About_the_ILO/Media_and_public_information/Press_releases/lang--en/WCMS_141928/index.htm

HALCO – HIV & AIDS Legal Clinic (Ontario) provides free legal services for people living with or affected by HIV/AIDS in Ontario.

We provide intake for new inquiries on Monday, Tuesday, Thursday and Friday from 9 a.m. to 5 p.m. We do not take new inquiries on Wednesdays.

HALCO is a registered charity, which is funded by Legal Aid Ontario, the AIDS Bureau of the Ministry of Health and Long-Term Care, and other sources including corporate, foundation and individual donors.



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HALCO news contains general information only and is not legal advice.

Laws, policies and practices can and often do change.

If you have a legal question or problem, please contact HALCO, your local legal clinic or a lawyer for advice.



HALCO news is published by the HIV & AIDS Legal Clinic (Ontario) and is distributed free to its membership, agencies and other members of the HIV/AIDS community in Ontario. Please contact HALCO if you want to reproduce or excerpt any part of HALCO news.

The views expressed in HALCO news may not reflect HALCO Board and/or staff views.



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 FAX 416-340-7248 www.halco.org

HALCO Membership/Renewal Application

The primary goal of the HIV & AIDS Legal Clinic (Ontario) is to provide legal services to persons living with HIV/AIDS in Ontario that are relevant to their well-being and that enable them to participate fully in the communities in which they live. To assist us in fulfilling our goal, we need the participation of people living with and affected by HIV/AIDS.

Please offer your support by becoming a member of HALCO - the HIV & AIDS Legal Clinic (Ontario). As a member of HALCO, you will be invited to join us at our Annual General Meeting, where you can participate in the business that helps to guide the clinic, including the election of our Board of Directors. *Membership takes effect when it is approved by the Board of Directors. Only members in good standing who have been members for at least 30 days before the meeting may vote at a membership meeting.*

There is no fee for HALCO membership and membership is renewed annually. To become a member, you must be a resident of Ontario who is 16 years of age or older and you must agree with our **Statement of Principles** [on the other side of this application]. Please complete this form and return it to our office. We regret that our budget cannot provide for return postage.

Your membership information will be used to inform you of our Annual General Meeting and to give you the opportunity to renew your membership annually. You can also choose to receive other HALCO information, including our Newsletter, by checking the box below. We do not share our membership list.

Declaration of my wish to become a HALCO member or to renew my HALCO membership:

I agree with the Statement of Principles of the HIV & AIDS Legal Clinic (Ontario) “HALCO”, I am a resident of Ontario, I am 16 years of age or older, and I would like to be a member of HALCO.

Signature: _____ Date: _____

Name: _____
 (please print)

Address: _____

Unit/Apartment: _____ City/Town: _____

Province: _____ Postal Code: _____

Home Phone: _____ Other Phone: _____

May we leave phone messages? Yes _____ No _____ E-mail Address: _____

Please tell us how you found out about HALCO: _____

Would you like to be on our mailing list to receive our newsletter, etc.? No _____ Yes _____

May we send newsletters, etc., to you by E-Mail? No _____ Yes _____

Thank you for applying to be a member of HALCO!

[HALCO news – Fall 2010]

Statement of Principles of the HIV & AIDS Legal Clinic (Ontario)

Adopted January 30, 2006, by the Board of Directors
of the HIV & AIDS Legal Clinic (Ontario).

It is agreed that:

1. People living with HIV and AIDS are confronted with unique legal problems of enormous proportions and complexity;
2. Those best equipped to make choices regarding HIV and AIDS issues and problems, are those individuals who are HIV positive themselves;
3. People living with HIV and AIDS must have control over their own lives.
4. The HIV and AIDS 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 and AIDS.
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 AIDS; and
6. The confidentiality, bodily security, autonomy and privacy of people living with AIDS and HIV must be respected, which includes but is 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 or AIDS to be fully informed of all process and procedures in which their interests are in any way involved; and
 - d) the right of all persons living with HIV or AIDS to consent, or withhold their consent, in all matters affecting them.