



Halco news - Fall 1997

volume 2, number 2

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Update on Bill 142: The Social Assistance Reform Act

The Social Assistance Reform Act, 1997, which includes Ontario Works and the Ontario Disability Support Program Act (ODSPA) has been through second reading, as well as the public hearings process. Hearings before the Standing Committee on Social Development were held on the 29th and 30th of September in Toronto, and for one day each in North Bay, Ottawa, London and Niagara Falls during the week of October 20th.

In late August, the HIV/AIDS Community Ad Hoc Committee on the Definition of Disability completed the final draft of their Position Statement, which was distributed to ASO's throughout Ontario to get their support. Thirty-four ASO's signed on. The Position Statement was then sent to the Ministry of Community and Social Services (COMSOC). As a result, the Ad Hoc Committee was able to set up a meeting with staff from the Opportunities for Persons with Disabilities Branch of the Ministry to discuss the new definition of disability.

From this meeting, we were given assurances that the definition of disability would be amended so that a person would not have to demonstrate a substantial restriction in their ability to attend to personal care, to function in the workplace, and function in the community. The amendment would require that an individual demonstrate a substantial restriction *in one or more of* these areas. In the meeting, we were also told that the intention of the government is that people with HIV, once they qualify, will never be reassessed -- unless a cure for AIDS is found; that people with HIV currently on benefits are not to be reassessed and cut off before the new legislation comes into effect; that having an HIV positive diagnosis will put you well on the way to qualifying for the ODSPA, but you will still need to demonstrate a restriction in one of the three spheres of activities of daily living; that your doctor will need to fill out a medical form, but that the activities of daily living assessment form can be filled out by an expanded list of professionals (occupational therapists, social workers, etc.) -- however, only your doctor will be compensated \$15.00 for the completion of any forms.

The issue of excluding disabilities resulting from drug or alcohol addictions from the definition of disability was also raised at this meeting. We were told that we stood miles apart from the government on this issue and they likely would not budge. However, when the issue was framed in the context of public health crisis among users, their partners and children that would occur as a result of a total lack of income supports, we were advised that we might approach the Minister from this angle. A letter was drafted to the Minister, and a meeting was held October 23rd with representatives from Voices of Positive Women and the Teresa Group.

Public Hearings

The AIDS Committee of Toronto was given one of the rare spots to present to the standing committee in Toronto. As a member of the Ad Hoc Committee on the Definition of Disability, ACT shared their presentation slot with other members of the committee, namely Mark Freamo, Executive Director of the Toronto People with AIDS Foundation, and Matthew Perry, HALCO's Community Legal Worker. Joan Anderson, Director of Education and Advocacy, represented ACT. Two HALCO Board Members, James Kreppner, representing Hemophilia Ontario, and Bob Watkins, representing the Terasa Group, were able to use Hemophilia Ontario's slot to expand on the Ad Hoc Committee's criticisms of the government's ability to place liens on people's homes, and making social assistance a loan.

Virtually all those presenting at the Toronto hearings had significant problems with Bill 142. Almost everyone identified the lack of appeal rights, liens, making assistance a loan, the appointment of trustees or guardians and direct payment to a third party as serious flaws in the legislation. Many groups, especially on the first day, concentrated on the ODSPA, and identified the exclusion of drug and alcohol addictions, as well as the and/or issue as deeply problematic aspects of the definition of disability.

What happens next?

HALCO also applied for and received funding from the Wellesly-Central Hospital's Urban Health Initiative to place an ad in NOW Magazine providing people with information about Bill 142. The Ad ran in the October 30, 1997 edition of NOW. Unfortunately, the ad had to be completed and submitted prior to the tabling of amendments discussed below, so some of the information changed on the eve of publication. Regardless, the ad was intended to reach a wider audience with information, as well as to keep people informed as to what effect Bill 142 might have.

Amendments to the bill were tabled on the 28th of October. As of our latest information, the amendments tabled by Janet Ecker, Minister of Community and Social Services, included the following:

- The wording of the definition will change to indicate that an individual will have to demonstrate a substantial restriction in one or more of the activities of daily living. This means you would have to prove your restriction in one or more of your abilities to attend to your personal care or function in the community or function in the workplace.
- Those with drug or alcohol addictions whose only substantial restriction results from their dependency or addiction, as well as from cessation of use of drugs or alcohol, are not eligible for assistance under the ODSPA. This means you get penalized for being a user, as well as being someone who is trying to stop using. The exclusion has been taken out of the definition of disability and placed in the section which outlines eligibility. This means the government is no longer saying that drug and alcohol addictions are not disabilities, just that people whose only disability is drug or alcohol addiction are ineligible for assistance under the ODSPA. However, if you have some other physical or mental impairment in addition to your addiction, you might be eligible for assistance, regardless of whether or not that additional impairment is or was caused by your addiction.
- Liens on principle property will not apply to an applicant, recipient,

spouse or dependant under the ODSPA. However, liens will continue to apply to those receiving support under the OWA.

-The appointment of a trustee will now be appealable, both under the OWA and the ODSPA, as long as you are 18 or older. Those who are 16 and 17 years old will have no right of appeal on the appointment of a trustee or guardian. As well, a subsection has been added which would require a trustee or guardian to report and account on management of your benefits, "as required in the regulations."

Amendments will be introduced and then voted on in the legislature. If accepted, the legislation is amended accordingly. Because the amendments mentioned above were introduced by the Minister herself, it is expected that they will be passed into law. Following the tabling and voting of any amendments, Bill 142 will have third reading and be passed into law. This is expected the week of Nov.24.

Effective Date

The Ontario Works part of Bill 142 is expected to take effect on January 1st, 1998. The ODSPA, however is not expected to be up and running until early March, 1998. This is due to the time it will take to complete the drafting of the regulations required for this part of the Act. We will keep you posted in upcoming issues of the HALCO News.

-M. Perry

Side bars to the above article

In a meeting with staff from the Ministry of Community and Social Services, we were told that a directive had been sent from the Minister's office to all area offices in June of 1997 stating that people with HIV were not to be reassessed or cut off FBA prior to the enactment of the ODSPA. We know this is continuing to happen.

If you, or someone you know is HIV-positive and has been cut off FBA at any time since June of 1997, we would like to hear about it. You can contact HALCO's office at 340-7790 in the Toronto area, or call our toll free number at 1-888-705-8889.

Further to the Social Assistance Reform Act (SARA) information that appeared in our last newsletter, HALCO has co-produced with Community Legal Education Ontario (CLEO), a pamphlet entitled

"The new Social Assistance Reform Act - How will it affect you?"

SARA will replace the law on Family Benefits and Welfare with the Ontario Disability Support Program Act (ODSPA) and the Ontario Works Act (OWA). To find out how it affects you or your clients, please contact us at HALCO or call CLEO at (416) 408-4420 and order your copy now.

HALCO Participates in the Inquest into the Death of William Bell

"Billy Bell died tonight, alone like a dog in a back kennel."

- A note written by Rev. Arnold Main, prison chaplain, on May 15, 1996, after Billy Bell, a federal prison inmate at the Kingston Regional Treatment Centre, died from AIDS related causes.

Between September 29th and October 2nd, 1997, HALCO represented the Prisoners' HIV/AIDS Support and Action Network ("PASAN") at the inquest into the death of Billy Bell held in Kingston, Ontario.

Billy was a federal inmate at Millhaven in January of 1995 when he became very ill and was transferred to a Kingston area hospital. The hospital diagnosed Billy with pneumocystis carinii pneumonia (PCP) and returned him to Millhaven for treatment. Prior to the PCP diagnosis, no one knew that Billy was HIV positive. The prison called in a specialist from the HIV Clinic at the Kingston General Hospital, Dr. Sally Ford. Dr. Ford described her first meeting with Billy: "I observed a very sick, breathless prisoner attempting to walk to the hospital area, whom I gussed to be the patient. A guard was shouting at him to 'hurry along'. [He then collapsed and] he was brought the rest of the way on a stretcher." Dr. Ford testified about how the penitentiary failed to provide to Billy the quality of care that her patients on the outside received. The prison pharmacy would run out of AZT and Billy would miss his dose days at a time. In the summer of 1995, Billy experienced excruciating headaches which the prison diagnosed as migraines for which they prescribed demerol. When Kingston General Hospital's HIV chaplain, Darryl Bell, saw Billy with the headache, he knew something was very wrong and called Dr. Ford. Dr. Ford had Billy sent to the hospital where he was diagnosed with cryptococcal meningitis. The prison medical staff were reluctant to provide Billy

with adequate pain medication as "they were afraid of encouraging addiction". It wasn't until Dr. Ford met with administrative staff and explained that Billy needed adequate pain medication that the prison was willing to give him MS contin twice a day. One of the prison guards testified that Billy would yell and threaten to be disruptive if he did not get what he wanted. On cross examination, the guard admitted that what Billy was yelling for was his medication.

In December of 1995, Billy reached his "mandatory release date", the date when he had served enough of his sentence to be paroled. The prison objected to Billy's release and argued that as he had AIDS, "he had nothing left to lose" and therefore be reasonably expected to be at risk of reoffending. Despite the opposition of Corrections Services Canada to his release, Billy was sent to the Keele Correction Centre in Toronto. Unfortunately, the Keele Centre had no medical staff and had not been prepared for his arrival. Other prisoners placed plastic over chairs that Billy had sat on and Billy was left to sleep the day away with no efforts made to awaken him at appropriate intervals to take his meds. The Keele Centre called staff at PASAN because they didn't know what to do about Billy. Billy's sister in law asked the Centre if she could take him out of there and to a hospital which they allowed. When Billy couldn't get admitted into a hospital, he failed to return to the Keele Centre on time and his parole was revoked. Billy surrendered himself and was returned to Millhaven. He believed the prison would realize its mistake and shortly parole him again to a place like McEwan House. In April of 1996, Billy had another parole hearing. This time he appeared with an IV pole, and had a life expectancy of mere weeks. The Parole Board decided not to release Billy. Nineteen days later he died.

Billy had told all of the prison chaplaincy staff that he was afraid to die alone in jail, but that's exactly what happened. Father Hale, Reverend Main, and Sister Kelly, all saw Billy the day of his death. They all testified that they knew he was dying. Some of them spoke with administrative staff and informed them Billy was dying. No one called Billy's sister-in-law. No one stayed with him. They all went home. Father Hale went out to dinner with friends.

At the inquest, the prison staff excused their failure in not calling Billy's family by saying that he was ashamed of having AIDS and didn't want his family to know about his condition. Billy's sister in law testified she and the rest of the family were all told by Billy about his being HIV+, she and Billy spoke many times a week by telephone. Once, the prison had called her at eight o'clock at night, told her that Billy was dying, and she'd driven to Kingston from Toronto and arrived at midnight, only to discover that the prison had made a mistake and that it was a different prisoner who had actually died.

Billy Bell's treatment in prison, the fiasco over his release to the Keele Centre, the failure of the Parole Board to release him nineteen days before he died, and the fact that he died alone when he didn't have to, are all unacceptable to PASAN and to HALCO. We participated in the inquest in order to convince the coroner's jury to make recommendations which would pressure Corrections Services Canada into improving the lives of prisoners with AIDS. To a large extent we were successful. The jury's recommendations included the following:

- that staff of prisons and half way houses receive more and better AIDS education;
- that health education for prisoners be mandatory and based on a peer counselling model and that the educational program be audited annually by external AIDS service providers;
- that the prison provide palliative care to the standard set out by the Canadian Palliative Care Association;
- that pain management be available to prisoners;
- that proper pre-release planning be done;
- that the care teams' recommendations regarding compassionate release be considered more seriously by the Parole Board;
- that all forms of HIV testing, including anonymous testing (not currently available in federal prisons) be made available; and
- that Corrections pilot a needle exchange project.

The jury concluded by saying: "We believe that, if implemented, our recommendations might help to prevent a recurrence of the unfortunate and regrettable circumstances surrounding William Bell's death."

- Ruth Carey

AGM Rocks with Fun and Games!

Okay, Okay, so maybe it wasn't all that fun, and no, there weren't any games (or rocks for that matter. -Rick), but it got you to start reading this article, didn't it?

HALCO's Annual General Meeting was held September 15, 1997, at the 519 Community Centre. Approximately 25 members attended to elect the Board of Directors for 1997-98, and to hear Reverend Susan Eagle, co-Chair of the Ontario Social Safety Network, speak about Bill 142 and the changes it brings to social assistance legislation.

Of the nine board positions, four are appointed. Two appointments each are made by the Toronto People with AIDS Foundation and the AIDS Committee of Toronto. Five board positions are elected from the community. This year six individuals stood for election at the AGM, including one individual who was nominated from the floor at the meeting. The staff and board of the clinic would like to recognize and thank all those who participated in the election to the board for their interest, dedication and commitment.

The following are the results of the AGM election:

Shimon Brownstein	Helen Daley
James Kreppner	Kirk Fallis
Bill Flanagan	Mark Freamo
Kelly Jordan	Alan Stewart
Robert Watkin	

At the first Board Meeting of October 7, 1997, the Executive Committee was voted upon by the Board Members and they are: Alan Stewart, Chair; Mark Freamo, Vice-Chair; and Shimon Brownstein, Secretary/Treasurer. Welcome all!

Other business conducted at the AGM included the passing of a Special Resolution required to amend the by-laws of the clinic in order to continue the process of achieving charitable status for the clinic. Currently the clinic operates as a not-for-profit corporation. With charitable status, the clinic would be able to accept charitable donations and issue tax receipts. If granted charitable status, it is hoped the clinic might generate more revenues through increased donations.

Reverend Susan Eagle spoke to those in attendance about the upcoming changes to social assistance legislation, Bill 142. While the new legislation was not the most uplifting topic, Susan was able to help all of us understand what was taking place, and to clearly explain the direction being taken by the Harris government. Please see the Update on Bill 142 article in this issue for the latest on the welfare changes. We would all like to thank Susan once again for her valuable contribution to the AGM.

In addition, those in attendance were asked about their opinion on the upcoming third phase of the national AIDS Strategy, which will cover the period from 1998 to 2003. The HIV/AIDS Consultation Secretariat prepared a workbook in order to gather information from those most affected by the NAS to contribute their thoughts and ideas in the development of Phase III. Unfortunately, a final version of the workbook was not available at the time of the AGM, so the membership was asked a series of questions regarding directions for Phase III of the NAS. The membership agreed that the provision of legal services for people with HIV/AIDS should be expanded on a national level, that there should be an increase in the amount of money spent on research on legal/ethical issues linked to HIV/AIDS, and that a 'most help for those in need' principle be adopted as we move into the next five year period. The information gathered at the meeting was forwarded to the National AIDS Strategy Consultation Secretariat.

Currently, membership in the clinic stands at 83. We are always looking to increase the number and the diversity of our membership, so please don't hesitate to mention us to anyone you feel would be interested in membership, and passing along the enclosed membership form. Please remember that membership is free to anyone agreeing with the clinic's Statement of Principles, but is valid for only one year. If you would like to check the status of your membership, please call our community legal worker Matthew Perry at (416) 340-7790 or toll free at 1-888-705-8889.

- Matthew Perry

HIV & AIDS Legal Clinic (Ontario)
Board of Directors 1997-98

Shimon Brownstein (Secretary-Treasurer) is a remotivation, bereavement and grief therapist, currently on sabbatical, and begins his involvement with HALCO's Board as Secretary-Treasurer for 1997-98. Shimon is also a Hotline volunteer at the AIDS Committee of Toronto, a volunteer with Holy Blossom Temple's AIDS Committee, a member of the Toronto People with AIDS Foundation and a volunteer at the 519 Community Centre.

Helen Dalely has been practising for 10 years as litigation counsel. Helen is a member of the AIDS Committee of Toronto and served as an ACT Board Member from 1992 through 1995. In 1995 ACT appointed Helen as one of its two representatives to the founding board of HALCO. Helen serves on the board this year as a community member.

Kirk Fallis completed his law degree at University of Western Ontario in 1991 and moved to Kitchener where he lived and worked for the next three years. In Kitchener, Kirk volunteered at the AIDS Committee of Cambridge, Kitchener, Waterloo and Area, where he served as a Board Member and Human Resource Committee Chair. For the past four years Kirk has worked for an international assistance company as Legal and Programme Manager. Kirk has completed a certificate programme in ADR and currently works as Retirement Planning Counsellor with London Life.

Bill Flanagan is an Assistant Professor of Law at Queen's University, and is one of the ACT appointees. Bill is also part-time Vice-Chair of the Workers' Compensation Appeals Tribunal, a member of the Law Society of Upper Canada, the author of articles on AIDS-related legal issues, a former Director and Chair of the Board of Directors of ACT, and Co-chair of the International AIDS Project which funds a community based AIDS Service Organization in St. Petersburg, Russia.

Mark Freamo's (Vice-Chair) background includes serving on the AIDS Sub-Committee of the Toronto Board of Health (1990-91), the Boards of Directors of: The Advocacy Resource Centre for the Handicapped (ARCH 1991-94), the AIDS Committee of Toronto (1994-95), and the Steering Committee of AIDS Action Now! (1991- ongoing). He has been intimately involved in the development of HALCO, including chairing the Advisory Committee to ARCH on the HIV & AIDS Legal Project (1991-94). Mark served as Chair of HALCO's Board of Directors during the 1996-97 year and continues to serve the Board as Vice-Chair for 1997-98. Most recently, Mark has accepted the position of Executive Director of the Toronto People with AIDS Foundation.

Kelly Jordon is a feminist lawyer practising in Toronto in the area of family law. Kelly was involved in the establishment of the Wills Clinic at the 519 Community Centre, co-ordinated the student legal clinic at ACT in 1992-93, and has been a member at ACT for two years. At ACT, Kelly has served as Chair of the Programs and Services Policy and Procedures Committee. Kelly served on the HALCO board from Spring of 1997 up to the September AGM. Kelly has been appointed to HALCO's board by ACT.

James Kreppner has been involved with the HIV & AIDS Legal Clinic since its beginning, and is one of two members of the board appointed by the Toronto People with AIDS Foundation. James' other activities include, and have included being a board member of the Toronto PWA Foundation, the Toronto-Central Ontario Regional Hemophilia Society, the Canadian Hemophilia Society. In addition James' memberships

include the National Advisory Committee of HIV/AIDS Treatment Information Network, CATIE, the Canada Advisory Community Committee on the HIV/AIDS Clinical Trial Network and the Canadian Treatment Advocacy Council. Currently, James is Vice-President of Hemophilia Ontario.

Alan Stewart (Chair) has been on HALCO's Board of Directors for one year. He was on the Board of the AIDS Committee of Toronto (ACT) from 1990 to 1994. He was Secretary and Vice-Chair, sat on the Policy and Advocacy Committee and the Community Relations Committee, and acted as liaison with Dancers for Life. He has also been a buddy and currently serves on the Hotline and the Policy and Advocacy Committee. For several years he volunteered at the Community Access Treatment and Information Exchange (CATIE), most of the time copy-editing *Treatment Update*. Alan works as a teacher at the University of Toronto and as a freelance writer.

Bob Watkin is a retired lawyer and former partner of several downtown law firms. He has served on HALCO's Board since February of 1995 and is a former Acting Chair and Treasurer. Bob is also President, Director and a volunteer at the Teresa Group. Bob is a member of the Advocacy Committee of the Ontario AIDS Network and a delegate both to the Ontario AIDS Network and the Canadian AIDS Society. Bob is currently coordinating a working group established to create a national organization focused on the needs of children, youth and families infected and affected by HIV and AIDS.

Egad! New Staff!

The HIV and AIDS Legal Clinic (Ontario) has been fortunate in acquiring 2 additional staff members to help with various research tasks.

Christopher Lang became involved with HALCO in early September through the 1997-98 Ontario Wrk Study Program. He completed his Bachelor of Laws at the University of Toronto in 1996, and completed a B.A. Joint Honours Program in History and Political Science at McGill University in 1992. Chris had extensive volunteer and clinic experience in community organizations, such as Downtown Legal Services, Foundation for Equal Families, McGill Save the Children, All Walks of Life Campaigns, and Gay and Lesbian Pride Day. Chris is assisting HALCO in researching and document drafting a Charter Challenge of a section of the Immigration Act.

Marnie Goldenberg is a HALCO volunteer through the Pro Bono Students Canada Program. Marnie is currently studying law at Queen's University and articling elsewhere. In 1992, she received her bachelor of Arts in English Literature from Trent University. Marnie, too, has had extensive volunteer and clinic experience in community organizations, such as Street Haven at the Crossroads (a women's shelter), Temagami Support Group, the HIV and AIDS Legal Clinic (through the Queen's Law Student's Legal Aid Society), the AIDS Clinic of Santa Barbara, California, and Delisle Family Services (home for teens), just to name a few. Marnie is assisting HALCO in researching a chapter of our lay advocate's legal manual tentatively titled "HIV/AIDS and the Law in Ontario: What HIV+ People Need to Know".

Welcome to both!

- Rick Lobdzinski

Pass it On!

Is your apartment too cold?

One of the most recurrent complaints people have as tenants is the lack of adequate heat when the seasons change and the temperature drops.

By Toronto municipal law, it is the landlord's responsibility and **YOUR RIGHT** to have adequate heat in all of your rooms, between **September 15th and June 1st** of each year. Adequate heat is a minimum of 21°C or 70° F. If you lack adequate heat, contact your landlord, and keep records of each communication you make. In Toronto, if nothing is done, you can contact the Buildings and Inspections Department at 392-7960 during normal business hours. In case of an emergency or after normal business hours, call 392-7149. For deaf people, TDD Users can call 392-0381. Outside of the Toronto area, contact your local municipal government to find out what guidelines for heat apply in your area.

Also, keep in mind that you may be entitled to a rent abatement. To find out if you qualify for a rent abatement, contact your nearest legal clinic. Note that the Ontario Provincial Government is changing the Landlord and Tenant Act in April of 1998, so the rules of rent abatements may be subject to change.

- Rick Lobodzinski

Help! Help!

As you can tell, we need a new name for our newsletter.

HALCO News just isn't going to cut it anymore. So, we're asking you to send us suggestions for a new name by January 15th, 1998. We know you can do it, and you know you need to do it!

Phone, fax, write or drop off your suggestions to the HALCO offices:
399 Church Street, 3rd Floor,
Toronto, Ontario
M5B 2J6

Phone: (416) 340-7790
1-888-705-8889
Fax: (416) 340-7248

Thank you!

The staff, board, and members of HALCO would like to thank Louise Binder and Richard Elliot for their invaluable contribution as board members of HALCO. Their wisdom, skills, dedication and humour will be sorely missed. We wish them well in their future endeavours. Keep in touch, Louise and Richard!

Halco News is published quarterly by the HIV & AIDS Legal Clinic (Ontario) and distributed free to its membership and other members of the HIV/AIDS community in Ontario. Written by: Ruth Carey. Rick Lobodzinski and Matthew Perry