

Province Wants Blood

In the fall of 1999, **halco news** (Vol. 4 no. 3) reported to you that a private member's bill, the *Blood Samples Act*, had been introduced in the Federal Parliament. The bill was designed to permit forced testing of people for HIV, Hepatitis B or C where a "good Samaritan", a peace officer, firefighter or other emergency services personnel, as well as other health care workers may have been exposed to a risk of infection with these viruses. That bill died after first reading when Parliament ended its session. However, in the spring of this year, **halco news** (vol. 6, no.1) reported that the legislation had been reintroduced as Bill C-217.

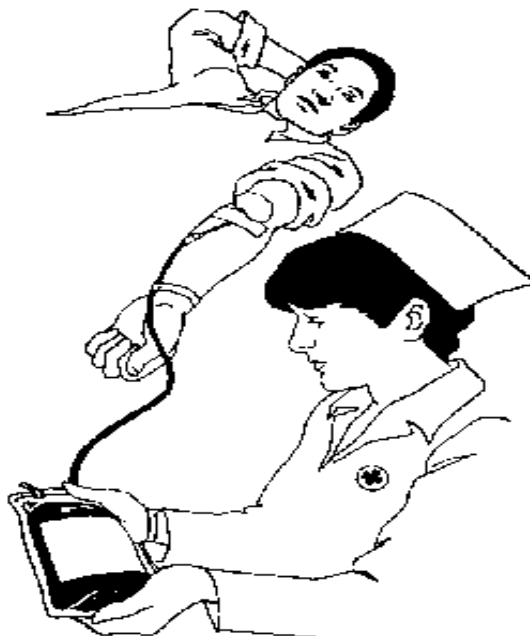
The current version of this bill received first reading on February 5, of this year. The bill has received second reading, and was referred to committee on October 20, 2001.

Well, not to be outdone by the feds, on October 1, 2001, Garfield Dunlop, Tory MPP for Simcoe North, introduced Bill 105, a private member's bill, for first

reading. The bill, called "An Act to amend the Health Protection and Promotion Act to require the taking of blood samples to protect victims of crime, emergency service workers, good Samaritans and other persons", received second reading on October 4, 2001 and has been referred to the Standing Committee on Justice and Social Policy. When a bill is referred to committee, a number of things could happen. The committee could decide to study the bill, they could request submissions on the bill, they could hold public hearings on the bill, or they could simply refer it back to the house for third reading.

The bill's explanatory note indicates that its purpose is very similar to that of the federal Blood Samples Act, Bill C-217, mentioned above. Basically, the proposed bill would allow someone to make an application to the medical officer of health to make an order requiring a "legally qualified medical

practitioner or other qualified person" to take a blood sample and deliver it to an analyst. The order would require an analysis of the sample and reasonable efforts to communication the results to the person who had to give the sample, and to the person who applied to have the order.



The bill is designed to create amendments to the existing Health Protection and Promotion Act (HPPA). Currently the HPPA is the legislation under which Public Health operates. It is also the legislation which allows Public Health to issue orders re-

garding the conduct of people with communicable diseases, commonly called "section 22 orders". The amendments would come into the legislation immediately following section 22, as section 22.1 and set out the conditions under which an order can be issued to require someone to provide a blood sample and that it be analyzed.

According to the proposed legislation, the medical officer of health can issue an order if he or she is of the opinion,

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“on reasonable grounds”, that the person seeking the order came into contact with bodily substances as a result of being a victim of crime or while performing emergency health care or first aid services (e.g. paramedics, firefighters, good Samaritans), or while performing a “function prescribed by regulations” in relation to the person; that the person seeking the order may have become infected with a virus causing a ‘prescribed’ communicable disease; that it would not be possible to determine whether infection occurred by analyzing the blood of the person seeking the order; and taking the blood would not endanger the life or health of the person being ordered to provide it.

The medical officer of health **could** hold a hearing of all the people affected by the order, but is in no way required to do so. If a person refuses to provide a blood sample after having been ordered to do so, the medical officer of health can apply to the Superior Court of Justice for an order requiring them to comply or to take “whatever other action the court considers appropriate in the circumstances” to protect the person seeking the order. This could include, for example, fines or imprisonment.

If the medical officer refuses to make an order after someone asks for it, the person who is seeking the order can appeal that decision to the Chief Medical Officer of Health. The regulations will set out the time limits for this.

The amendments proposed by Bill 105 would allow changes to the regulations which would list what communicable diseases would be included under the new section 22.1 orders. The regulations would also set out what “functions” would qualify to allow for an application to be made for an order (prob-

ably something like a police officer in the line of duty).

When similar legislation was proposed at the federal level, a number of agencies, organizations and government ministries, including the Canadian HIV/AIDS Legal Network (CHALN), the Department of Justice, and Health Canada expressed their concerns. CHALN put together a memo in response to the federal bill, as well as a letter to Justice Minister, Anne McLellan, expressing their concerns. You can find these documents on the CHALN website at <http://www.aidslaw.ca/Maincontent/issues/testing/e-billc-217-memo.htm>.

HALCO will continue to keep you posted about any developments regarding the provincial bill. In the meantime, if you would like an opportunity to address the standing committee on this issue, you can get in touch with Tom Prins, the Committee Clerk at Room 1405, Whitney Block, Queen’s Park, Toronto, ON, M7A 1A2. Phone: 416-325-3509, fax: 416-325-3505, email tom_prins@ontla.ola.org

If you would like to let Garfield Dunlop know what you think about this issue, you can reach him at his Queen’s Park office by phone at 416-325-3855, by fax at 416-325-9035 or by email at garfield_dunlop@ontla.ola.org. You can also reach him by regular mail at 900 Bay Street, 22nd Floor, Mowat Block, M7A 1L2.

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HALCO Launches Suit Against Corrections Canada

Jason Pothier is suing the Correctional Service of Canada for damages for their negligence related to his infection with HIV, and also for the negligent manner in which he has been receiving HIV treatment while in the federal penitentiary system. Jason was infected with the HIV virus while incarcerated either at Joyceville or Warkworth. He was infected by heroin injections with dirty needles. Jason became hooked on heroin after he got into the federal penitentiary system. Aware of the risk to himself of injecting with dirty needles, Jason asked to be put on a methadone maintenance treatment program on several occasions, but was refused each time. He subsequently seroconverted.

Now Jason is suing the Correctional Service, alleging that they have to be held responsible for his HIV infection for their failure to treat him with methadone when they knew that it was very likely he would get HIV because of his heroin addiction. As well, after Jason was infected with HIV, he is alleging that Correctional Service has been negligent in failing to provide him with his HIV medications on a timely basis, which has meant he has missed his medications for as much as one week or 10 days at a time. Because of this, the HIV virus has become resistant to several medications, and Jason’s HIV specialist physician has been having difficulties in treating Jason. Jason is alleging that the medical care and treatment he is receiving while in prison is not up to the professional standards that the prison system is obliged to give all inmates under their custody.

2000 - 2001 Report from the Chair

The following is the text of a speech given by Bob Watkin, Chair of the HALCO board of directors for 1999-2000.

Living with AIDS can be likened to living in a prison without walls - the walls might not be concrete but they are as real and tangible as if they were. The substance of those walls is hardened by deceit, deferral, disavowal and denial. They are surmounted by wire barbed with paranoia and prejudice. Our guards are our own apprehension based on a substantiated fear of the consequences we experience as a result of disclosure of our status. It is inhibiting, demoralizing and too often, defeating. The extent to which we are imprisoned can clearly be seen in the fact that no other disease has ever attracted legal consequences and criminalization to the extent that HIV disease has. It's a very real incarceration.

It is the role of this clinic to help people find a way out of that imprisonment.

Each year the clinic grows stronger in its resources and ability to assist our community. In the current year we have seen the addition of the second of our two new legal positions. Those two positions have given us the ability to increase and expand our capacity to provide day to day legal services as well as enabling us to begin to address more fundamental issues. This growth has not come without problems. Our clinic has moved from a semi-autonomous existence to more direct governance by a new entity called Legal Aid Ontario. This transition has not been an easy one. The problems persist.

In the past year, Legal Aid Ontario divested itself of most of the staff who knew how the clinic system ran, and replaced them with new staff with an untested vision of legal aid in Ontario. In and of itself, this creation of a new bureaucracy to enable Legal Aid Ontario to function has been

tortuous. We have experienced times when there was simply no one at Legal Aid Ontario who knew how to do basic tasks. Although not intentionally, mistakes have been made.

Let me give you just one example so you know what we are talking about. Legal Aid Ontario hired an accountant to do financial cost estimates -- projections into the future. The accountant made an error and led the Legal Aid Ontario Board to believe that it had a huge surplus in its operating funds which did not exist. The Board made a decision to spend this non-existent surplus on expanding the clinic system across the province. But no one left within Legal Aid Ontario had any experience with setting up new clinics. As a result, non-existent funds were insufficiently budgeted for the expansion of the system. Then Legal Aid Ontario discovered the accountant's error, so it is now facing a deficit along with numerous commitments to expense new funds.

It is to be hoped as time passes that increasing knowledge and experience will increase the sophistication of the governance under which we must now exist. We have no reason to believe that this increasing sophistication will not occur. But it imposes on us an additional need to be more vigilant, politic and sophisticated ourselves. The shortfall in Legal Aid Ontario funds has been passed onto us in the under-funding of one of our new positions. As a result, the new Board of the legal clinic will have to seriously address these funding issues.

I have mentioned there have been significant and worthwhile changes in the clinic this year. The addition of the two new legal positions is extremely welcome. In particular we now have a capacity to address some systemic issues facing our community as you will hear later tonight. Our premises here have increased in size

(for an oversize example, you are welcome to visit our throne room just behind us). These changes have been additionally welcome as they have relieved the level of stress under which our staff has been required to operate to date. As always as Chair, I would like to take this opportunity to state how grateful I am for the hard work and dedication of the persons who work for this clinic.

This year we unfortunately witness the departure from our Board of two long term members. Helen Daley joined our Board in 1995. Her commitment to this clinic and its function has been thorough and unrelenting. She has served as the Chair in the past and functioned in the unwelcome position of head of the Personnel Committee. We are grateful for her dedication. Alan Stewart joined the Board in 1996. Alan has also served as Chair of the clinic and has been a devoted contributor to its growth. Unfortunately with his departure, other members of the Board will have to be vigilant to ensure our grammar and spelling remains at least adequate.

The departures of these two good people will make a significant difference to us. We can only hope to be half as effective as we were with their participation.

Tonight we end one year and begin our seventh year of operation. We dedicate ourselves to providing the most effective, efficient and compassionate service of which we are capable to you, our community.

Together we can begin to make some crack in the walls that imprison our lives.

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Mark Blans, PHA was appointed to the PWA board in 1997 and subsequently appointed to the HALCO board as a PWA representative. Most recently Mark served as HALCO's secretary/treasurer and has been active on the finance, personnel, outreach, executive fund-raising committees. Mark has researched HIV & AIDS issues and has been involved in community events for well over 10 years, including involvement with PWA and ACT. Mark brings years of management & computer skills to the clinic and was instrumental in the development of the HALCO website, acting as a web-master & site developer. Mark recently accepted a position on the David Kelley HIV/AIDS Community Advisory Committee to expand HALCO's out-reach potential. Mark regularly participates in HIV/AIDS conferences and smaller events to present input on issues key to everyone living with HIV. Mark is aggressively promoting fund raising initiatives using technology based solutions, sourcing and securing funding. Mark is extremely committed to both the clients and membership of the clinic. When asked: Why do you serve? The reply was: "Being a PHA myself, I see what happens to others now and only see it getting worse. PHAs will need HALCO for a long time to come. I intend on making that possible for all of us".

James Kreppner is a retired lawyer living with HIV and Hepatitis C, who has been involved with the HIV & AIDS Legal Clinic since its formal inception. He is one of the Toronto People With AIDS Foundation appointees. In the past, James has been Co-Chair of the Toronto PWA Foundation, a member of the HIV/AIDS Clinical Trials Network (CTN) Steering Committee, a member of the Advocacy Resource Centre for the Handicapped (ARCH) Board of Directors, and a Vice-President of the Canadian Hemophilia Society. He has sat on an advisory committee to the Canadian HIV/AIDS Legal Network, and is currently a Board member of the Toronto Central Ontario Regional Hemophilia Society, Hemophilia Ontario, and the Canadian Hemophilia Society. He has a longstanding interest in access to treatment issues and human rights issues related to HIV. James continues to sit on the HIV/AIDS Clinical Trial Network (CTN) Community Advisory Committee, and he is a council member of the Canadian Treatment Advocates Council (CTAC).

Jim Lister is a long-term survivor, HIV+ for over 18 years. As such, he has had first hand contact and run-ins with ODSP, CPP-D, Metro Housing, Substitute Decisions Act (through the death of his last lover), PWA foundation, ACT and most recently, Citizenship and Immigration Canada. Jim has been married for 6 1/2 years. Jim and his husband are the first same sex couple to win the right to appeal a CIC decision and appear before the Immigration and Refugee Appeals Board (Date pending Dec. 17, 2001). In the past, Jim has worked as a fundraising volunteer and co-ordinator, a volunteer on the HIV/AIDS unit at the old Wellesley Hospital, and was co-chair and co-ordinator/treasurer for the Church St. Community Christmas Dinner for three years. This is Jim's first board position.

Martha Mackinnon is one of the PWA appointees to our board. Martha taught English and Drama in secondary school for eight years before she went to law school. She has concentrated her legal practice on education law and children's rights, serving as Board Solicitor to the York Region Board of Education for 8 years, and currently as Executive Director of Justice For Children and Youth, a legal clinic for low-income youth. Martha has twice been the Chair of the Education Law Section of the Canadian Bar Association -Ontario. She is the Vice-President of CAPSLE, the Canadian Association for the Practical Study of Law and Education. She is the so-author of An Educator's Guide to Special Education Law. Martha has been involved with the Toronto PWA Foundation almost since its inception and is committed to helping it fulfil its mandate - to enhance the dignity of those affected by HIV and AIDS.

Rick Peever joins HALCO's board as one of the community members this year. Rick hopes to see the PHA community develop strength. This is Rick's first year on the board and he looks forward to contributing and learning while serving on the board.

Connie Vernon is a lawyer currently working in civil litigation at the Ministry of the Attorney General. Before returning to school to become a lawyer, Connie worked for ten years at Seneca College. While at the College, she worked in the areas of athletics and student leadership development. Connie first joined the board as a community member in 1998 and has served as Co-Chair for 1999-2001, and as a member of the Outreach Committee.

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 Chair, Vice-Chair and Treasurer. Bob is also a past President, Director and a volunteer at the Teresa Group. Bob has been a delegate to the Ontario AIDS Network (OAN), the Canadian AIDS Society and is a past Coordinator of the Gay Men's Caucus of the OAN. Bob is a former member of the Advisory Committee for Positive Youth Outreach.

Gary Weagle has a Bachelor of Commerce degree and has had a successful career in taxation counselling and investment management. He has been involved in the implementation and development of a Canada Works Project designed to assist the underprivileged in the downtown Toronto core, and is active in community charitable works. *FAB Magazine* has named him as one of the persons who makes being Gay in Toronto fabulous, principally because of his unpaid work with Gay, Lesbian, Transsexual and Transgendered youth. He has participated in HALCO meetings for many years. Gary's volunteer experience in the HIV/AIDS community is noteworthy, and he has the reputation of being a "down-to-earth" individual who enjoys working with groups and on a "one-to-one" basis with individuals. Gary has served on the Board of Directors of a private charitable organization in the past, and on HALCO's Board since 1999.

Lee Zaslofsky is one of our AIDS Committee of Toronto appointees, and replaced Joan Anderson on the HALCO Board in March of 1999. Lee is the former Advocacy and Media Relations Coordinator at ACT. Prior to his time at ACT, Lee was a Community Health Worker at the Queen West Community Health Centre. Lee is a citizen member of City of Toronto Board of Health. He is Co-Chair of the Board of Health's AIDS Subcommittee.

You Asked Us

Q: I'm on ODSP and have been living in a rent-geared-to-income (RGI) apartment. Right now my rent is \$139 a month, and my ODSP amount is \$655 (139 + 516). I just found out that I'm going to start getting CPP disability benefits of \$480 a month. Since this is going to be deducted from my ODSP, I'm not going to be getting any more money now than I did before. Do I have to report this change to the housing provider? What will happen?

A: Yes, you do have to report this change. And your rent amount will change. Under the RGI rules, the amount of rent you pay depends not only on how much income you have, but also on **where** your income comes from. If your only source of income is ODSP or OW (social assistance), then your rent amount is calculated using a standard chart. For a bachelor apartment, for example, the standard rent amount for someone on assistance is \$109 plus a standard amount attributable for utilities. Currently that charge is usually \$30, making the full rental amount \$139 per month for a bachelor or one bed-

room unit.

However, if you have a combination of sources of income, even if it includes OW or ODSP, then your rent may be calculated differently. RGI housing has what is usually called a "non-benefit threshold" (NBT). For a single person in a bachelor or 1 bedroom unit, the NBT is \$440. So, if you get income from a source other than OW or ODSP which is more than \$440 a month (for example, Long Term Disability benefits, or income from employment, or Canada Pension Plan benefits), then your rent should actually be calculated to be 30% of your non-OW or ODSP amount.

Let's go back to the example in our question. Once your CPP starts, you will be receiving a non-benefit amount of \$480 per month. Your rent will now be calculated at 30% of \$480, or \$144 plus the utility amount, if it is included in your rent (in this case \$30) for a total of \$174. But how will you pay the increased rent if your total income (ODSP + CPP) is the same? Report

any notice of rent increase to ODSP, and the new rent amount will be used to calculate your shelter amount. Once ODSP has this information, they will increase the shelter amount on your ODSP cheque to match your new rent.

Think this is confusing? Well, the laws with respect to RGI housing are changing. The *Social Housing Reform Act, 2000* contains specific new regulations and rules about RGI housing, including how it is calculated, what the rates are, and who is eligible for RGI housing. These regulations will come into effect in various communities over time. As of October 1, 2001, the new regulations are in place in the City of Kingston, the County of Lambton, the Regional Municipality of Peel and the Regional Municipality of Waterloo. On November 1, 2001, they came into effect in the Regional Municipality of York.

HIV & AIDS Legal Clinic (Ontario) Donation Form

Yes! I want to make a charitable donation to help HALCO continue helping low-income PHAs in Ontario.

Please accept my donation of: \$25 \$50 \$100 Other \$ _____

Please charge my VISA or AMEX: Card # _____ Expiry Date _____

Name on card: _____ Signature _____

I enclose cheque/money order payable to the HIV & AIDS Legal Clinic (Ontario).

Name _____

Address _____ Postal Code _____

Phone (day) _____ Phone (evening) _____

Fax _____ Email _____

The HIV & AIDS LEGAL CLINIC (ONTARIO) is a registered charity. Our Charitable Registration Number is 891026957 RR0001.

Mandatory Literacy Testing: Coming Soon to an Ontario Works Office Near You

The Ontario government recently released the regulations dealing with mandatory literacy testing for people applying for, and in receipt of Ontario Works benefits.

The new regulations were published in early September, but are effective as of August 10, 2001. The regulations only define literacy as "literacy in either English or French and numeracy". There is no further definition about what literacy means in the legislation. To date, we have not seen any policy directives about the mandatory literacy screening which would give us more detail about how the regulations will be used.

The new regulations create two additional "employment assistance" activities under Ontario Works:

- a literacy screening test, and
- a literacy assessment and literacy training program (or both).

The new regulations specifically state that an **applicant** can be required to take the screening test. A dependent child who is either too young to be in school, or who is in school, and anyone who will only be receiving temporary care assistance will be exempt from the requirement. The only other way to be exempt from the screening test would be to provide something in writing from your physician or a psychologist verifying that you have a learning disorder. There is nothing in the regulations explaining what a "learning disorder" is. Most people will not be able to come up with this information at the time of the application and so will likely have to undergo the screening test.

If you do not score high enough on the literacy screening test, you will likely be referred for literacy assessment and training programs. These programs can also be a required employment assistance activity under the new regulations. Again, you might be exempt from the assessment or training programs if you can provide medical proof of a learning disorder. Under the assessment and training requirements, individuals who refuse to take part or who don't make "reasonable efforts" might be subject to a penalty (see below).

However, if you tell OW that you have a learning disorder, or if OW thinks that you might have a learning disorder, they can give you up to 90 days to get the required medical proof from your physician or a psychologist. This would be the only way to avoid the penalties for refusing to participate or not making reasonable efforts.

What's wrong with providing literacy screening, assessment and training?

Nothing. The problem is the fact that it's *mandatory* and that what you get in terms of assessment and training may not be all that you think it is. It is important to note that all the information we have to date indicates that there will not be a huge influx of money to provide additional literacy programs and services. It is generally expected that programs will be delivered from within existing budgets and with existing services. This likely means that there will be a significant increase in the numbers of people being referred to the **same** numbers of programs which are already swamped with individuals who have self-identified as people who want to improve their literacy skills on a voluntary basis. Literacy training is already available as a voluntary option under OW. The most significant change which has occurred is that this training can now be made mandatory, and a failure to follow through could result in a loss of any assistance at all for a period of three or six months.

The other important note is that Ontario Works programs are still based on the concept of "shortest route to employment", and individuals are still required to accept any work that is offered to them, or face losing their benefits. The "shortest route to employment" might not in fact mean providing literacy training and programs to help you become fully literate and perhaps improve your chances of upgrading your education and skills, and a fighting chance at moving out of poverty. In fact, it might mean providing the minimum amount of training to enable you to work at a job which requires minimal literacy skills. If that job should be offered to you, you will be required to accept that job, and if you refuse to take it, or quit that job, you may become ineligible for assistance for a three or six month period.

What happens if I refuse?

A refusal to take the test, participate in the assessment or training, or a failure to make "reasonable efforts" in the training could result in a penalty. If you are an applicant, and you refuse to participate in the screening test, you could be prevented from applying for assistance for 3 months if it is your first penalty, or six months for your second or further penalties. If you are applying as part of a benefit unit, then the part of assistance that is for you would be deducted.

The new regulations now make both applicants (those applying to get assistance) and recipients (those already receiving assistance) subject to any penalties for failing to comply with the OW requirements. This means that if you are applying for OW and you are required to take a literacy screening test, refusing to do the test could result in a penalty. The penalty would mean that you could not apply for assistance for three months if it's your first penalty, or 6 months if its your second or more. These same penalties could also be used for people already on the program who refuse to take the test, or refuse to participate in a required assessment or training program, or even just "fail to make reasonable efforts" in the program.

What about ODSP?

The new regulations have only been incorporated into the Ontario Works act, and do not apply to ODSP. However, based on the information we have to date, there are no provisions that would exempt someone who is **applying** to ODSP through OW from being required to participate in the literacy screening requirements. For those who are already on ODSP, the regulations will have no impact.

When will the screening start?

The literacy screening was schedule to start on October 1, 2001 in the pilot sites. The pilot sites are Belleville, Peterborough and Algoma. Other regions will come on line and start applying the regulations as the program is rolled out between now and April of 2002.