

HALCO

HIV & AIDS Legal Clinic Ontario

news

- HALCO provides free legal services for people living with HIV in Ontario -

Dignity

Equity

Justice

HALCO news *Autumn/Winter 2015*



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HALCO Annual General Meeting, 2015 Kreppner Award, Annual Report 2014-2015, and 20th Anniversary Celebration

Our 2015 annual general meeting and 20th anniversary celebration took place on October 15, 2015, in the Ball Room at the 519 Community Centre, Toronto. More than 50 people joined in the celebration to mark our 20 years of providing free services to people with HIV in Ontario.

Panel speakers **Dr. Mona Loutfy, Tim McCaskell, Maureen Owino** and **Ryan Peck** gave their perspectives on some of the many issues related to the criminalization of HIV non-disclosure.

Our **2015 Kreppner Award** was presented to **David Hoe**. For more information about David and the award, please visit our website:
www.halco.org/2015/news/david-hoe-is-2015-halco-kreppner-award-recipient.

New board members **Jessica Demeria, Rodney Kort, Andrew Mantella, Neesha Rao** and **Angela Smith** were elected to HALCO's volunteer board of directors. Continuing board members **Scott Nickerson, Barbara Ncho, Judith Odhiambo,** and **Andrew Paizee,** and, departing board members **Laura Bisailon, Michael Capp, John McCallum,** and **Eric Mykhalovskiy** were all acknowledged for their innumerable contributions to the HALCO board. Our current board list is on page 9.

Ryan Peck, HALCO's executive director, presented our **2014-2015 Annual Report** and gave a summary of our activities. Our report is available on our website:
www.halco.org/2015/news/halco-annual-report-2014-2015-is-here.

After the meeting, **Divas Live** sang and gave a fabulous performance, then DJ **Jade Elektra** provided music for the post-meeting celebration.

Thank you to everyone who helped to make the event such a success!

HALCO Court Interventions Update

Mandatory Minimum Prison Sentences Challenge

R. v. Lloyd, Supreme Court of Canada (Docket #35982)

HALCO was recently granted leave (permission) to intervene in this case before the Supreme Court of Canada (the SCC), in a coalition with the Canadian HIV/AIDS Legal Network, the Prisoners with HIV/AIDS Support Action Network (PASAN), the British Columbia Centre for Excellence in HIV/AIDS, and the Canadian Association of People who Use Drugs (jointly, the “Lloyd Coalition”).

Mr. Lloyd brings constitutional challenges to section 5(3)(a)(i)(D) of the *Controlled Drugs and Substances Act*, which imposes a minimum prison sentence of one year for certain drug trafficking offences. He asserts that the minimum sentence violates two rights under the *Canadian Charter of Rights and Freedoms* (the *Charter*) because it results in:

- a deprivation of liberty in a manner that does not accord with principles of fundamental justice (section 7); and
- a violation of the right not to be subjected to cruel and unusual punishment (section 12).



The Lloyd Coalition has been given permission to make written submissions to the SCC (and may also be given permission to make oral submissions after the Court reviews the written submissions). The Lloyd Coalition will submit that the mandatory minimum sentence in question violates sections 7 and 12 of the *Charter* because it prevents a judge sentencing an offender from considering:

- the health consequences of a prison sentence on an offender who is drug dependent; and
- the reduced moral blameworthiness of a drug dependent offender where the offence committed is connected to that dependency.

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The Lloyd Coalition will also submit that a drug dependent offender, particularly one living with HIV and/or Hepatitis C, is likely to suffer significant health consequences because of being imprisoned. A sentencing judge must therefore be able to consider these potential health consequences when deciding on an appropriate sentence, as drug dependent offenders, including those living with HIV and or Hepatitis C, are likely to be captured by the mandatory minimum, which could result in them serving longer prison sentences (and therefore suffering even more significant health declines).

The case is scheduled to be heard by the SCC on January 13, 2016.

Landlords and the Landlord Tenant Board must consider disability
Duncan v. Toronto Community Housing Corp
- Ontario Superior Court of Justice, Divisional Court (2015 ONSC 4728)

HALCO, together with the Advocacy Centre for Tenants Ontario (ACTO) and the Centre for Equality Rights in Accommodation (CERA) (jointly, the “Duncan Coalition”), intervened in this matter before the Ontario Superior Court of Justice, Divisional Court in July 2015.

Toronto Community Housing Corporation (“TCHC”) had brought eviction proceedings before the Landlord and Tenant Board (the “LTB”) against Mr. Duncan. For reasons related to his disability, Mr. Duncan did not attend the LTB hearing and the matter went ahead in his absence. During the course of the hearing, evidence was raised indicating that Mr. Duncan had a disability and that his disability may be connected to the reason that TCHC was seeking to evict him. The LTB did not consider this evidence and issued an eviction order.

Upon learning of the eviction order, Mr. Duncan filed a Request to Review the eviction order with the LTB. Mr. Duncan submitted that:

- he missed the initial hearing because of his disability; and
- the LTB failed to consider his disability before issuing an eviction order.

HALCO Court Interventions Update – continues on page 5

The Duncan Coalition submitted that a landlord and the LTB have a “procedural duty to accommodate” a tenant where the tenant’s disability or special needs are perceptible to the landlord and/or the LTB, even if the tenant has not requested accommodation. This approach would require the landlord and/or LTB to consider whether any perceptible disability of the tenant is connected to potential grounds of eviction or sanction, before proceeding with any such action. The LTB would also be required to consider whether the tenant requires any special accommodation in the hearing process because of the perceptible disability.

The Duncan Coalition submitted that this kind of proactive triggering of the procedural duty to accommodate disability is particularly important for tenants from disadvantaged populations and those living with stigmatized health conditions (such as mental health issues, addiction issues, and HIV) because:

- some may not want to disclose their condition if it is stigmatized;
- some may not be able to disclose their disabilities during a particular phase of their disability; and
- some might not be able to express their accommodation needs in legal terms.

Mr. Duncan’s appeal was successful and the Divisional Court sent the case back to the LTB for a new review hearing.



New Low-Income Electricity Support Program

The new **Ontario Electricity Support Program** (OESP) for lower-income electricity consumers begins on January 1, 2016.

The OESP is available for lower income households that are customers of an electric utility, including unit sub-meter providers and retail energy companies.

You must apply for the program and applications are being accepted now. Please see below for application information.

If you qualify, the OESP will reduce the cost of your household electricity by applying a monthly credit of between \$30 and \$50 per month directly to your bill.

The OESP offers a higher credit of between \$45 and \$75 per month for:

- consumers whose homes are electrically heated
- people who rely on certain medical devices that use a lot of electricity
- low-income First Nations and Métis households.

Two other factors that affect the amount of the OESP credit are:

- the number of people who live in your home, and
- the combined income of the people in your household.

For more information, please visit the Ontario Energy Board website:

www.ontarioenergyboard.ca/oesp.

To apply for the OESP:

- online at www.OntarioElectricitySupport.ca.
- call 1-855-831-8151 to be connected with a local intake agency for application assistance.
- First Nations electricity consumers can contact the Ontario Native Welfare Administrators Association (ONWAA) at 1-844-885-3157.



Specialty Legal Clinics Co-location Project Update

As we reported in our *Summer 2015*, *Spring 2015* and *Autumn 2014* newsletters, we have been participating in a project exploring a co-location model with a number of other specialty community legal clinics.

HALCO is one of more than 75 community legal clinics in Ontario. Local legal clinics serve their local community (a geographic catchment area). Specialty legal clinics serve a particular community of people or respond to a particular area of law. HALCO's community is people living with HIV in Ontario.

The new space for the co-locating clinics at 55 University Avenue is being renovated now. The partner clinics will be moving in the coming months and we expect to be moving into our new office in May 2016.

Please rest assured that HALCO's primary focus will continue to be the provision of free legal services to people living with HIV in Ontario.

HALCO thanks our funders and supporters

Core Funders - Legal Aid Ontario
- AIDS Bureau, Ministry of Health and Long-Term Care

Funding Partner - M-A-C AIDS Fund

ViiV Healthcare - grant in support of our 2015-2016 articling program

Individuals - To all those who support us in so many ways: thank you!

HALCO is a registered charity and welcomes donations (tax receipts are issued for donations of \$20.00 or more). You can make a donation at any time by clicking on the **DONATE** button on our website www.halco.org or by contacting us (see back page).

Without you, we would not be able to do the work we do.

HALCO's website: www.halco.org

Our **What's New** website sidebar helps keep you up-to-date on current issues, announcements, events, and more.

Our **Areas of Law** pages include information about many different legal topics: www.halco.org/areas-of-law.

You can apply to become a member of HALCO or to renew your HALCO membership:

www.halco.org/getinvolved/membership.

If you have any questions about our website, please contact us!



HALCO's Public Legal Education Workshops

As always, our staff continue to provide legal education workshops for groups and organizations across Ontario. Workshops are on topics of interest to people living with HIV as well as HIV/AIDS legal issues for the community in general. Also, we hold free workshop series in our boardroom that are open to everyone.

Please contact us or visit the **Public Legal Education** section of our website for more information: www.halco.org/our-services/public-legal-education.

Our workshop legal topics include:

- Criminalization of HIV Non-Disclosure
- HIV and the Law Overview
- HIV and Immigration Law
- HIV and Privacy Law
- HIV and Private Insurance
- HIV and Employment Law
- Medical Cannabis (marijuana)
- Planning for illness: legal information for people living with HIV in Ontario
- Powers of Attorney and Advance Care Planning
- Government Sources of Income for Individuals and Families
- Disability Tax Credits and Registered Disability Savings Plans
- Ontario's Drug Benefit Programs

Please contact us if you would like to request a workshop or our participation in an event (please see back page for HALCO contact information).

HALCO People

HALCO Staff Update

Adele MacLean

We are very grateful to **Adele MacLean**, who has been our acting office manager since September 2015.

Clare Crummey

Clare Crummey will join us as our new immigration lawyer in January 2016.

Amy Secord

Amy Secord will be joining us as office manager in January 2016.

Raymond Lo

Raymond Lo left HALCO in the autumn to pursue a career in private practice.

HALCO Board of Directors

HALCO's skilled and dedicated volunteer board members oversee our governance and provide direction:

- **Rodney Kort**
- **Neesha Rao**
- **Judith Odhiambo**
- **Jessica Demeria**
- **Barbara Ncho**
- **Andrew Paizee**
- **Andrew Mantella**
- **Angela Smith**

For more information about our board and board committees, please contact us or visit **Get Involved** on our website:

www.halco.org/get-involved

HALCO Staff

- **Ryan Peck** (executive director/lawyer)
- **Meagan Johnston** (staff lawyer)
- **John Nelson** (staff lawyer)
- **Fathima Cader** (staff lawyer)
- **Amy Wah** (staff lawyer)
- **Rick Lobodzinski** (admin. assistant)
- **Khalid Janmohamed** (staff lawyer)
- **Jill McNall** (community legal worker)
- **David Nisker** (articling student)
- **Adele MacLean** (acting office manager)

HALCO Membership

HALCO's work is supported by our 175 members. HALCO membership is free and renewed annually. HALCO members support HALCO and our primary goal of providing free legal services to people living with HIV in Ontario.

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** (below).

Please offer your support by becoming a member of HALCO!

You can apply for HALCO membership or renew your HALCO membership:

- on our HALCO website: www.halco.org/get-involved/membership
- by contacting us to ask for a membership application form by mail (for HALCO contact information please see back page).

Please note that HALCO membership has no effect on eligibility to receive legal services from HALCO.

Statement of Principles of the HIV & AIDS Legal Clinic Ontario Adopted January 30, 2006, by the Board of Directors

It is agreed that:

- 1. People living with HIV/AIDS are confronted with unique legal problems of enormous proportions and complexity;**
- 2. Those best equipped to make choices regarding HIV/AIDS issues and problems are those individuals who are HIV positive themselves;**
- 3. People living with HIV/AIDS must have control over their own lives;**
- 4. The HIV/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/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/AIDS; and**
- 6. The confidentiality, bodily security, autonomy and privacy of people living with HIV/AIDS 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/AIDS 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/AIDS to consent, or withhold their consent, in all matters affecting them.**

Getting Legal Help

If you are living with HIV in Ontario, please contact us for free legal information and advice.

Others in Ontario can contact their local community legal clinic:
www.legalaid.on.ca/clinics.

HALCO provides intake for new inquiries on Monday, Tuesday, Thursday and Friday from 9 a.m. to 5 p.m. (not on Wednesdays). A HALCO caseworker is assigned to deal with new inquiries each intake day.

HALCO is a “scent-reduced environment”: please avoid wearing scented products when coming to our offices. Help us to make HALCO more comfortable for everyone!

HALCO is a registered charity 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. We welcome donations.

HALCO news/brief contains general information only. It is not legal advice.

Laws, policies and practices can and often do change.

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

HALCO news newsletter is published by the HIV & AIDS Legal Clinic Ontario (HALCO) and is distributed free to our members, interested individuals, agencies and organizations.

Please contact HALCO if you want to reproduce or excerpt any part of our newsletter.

The views expressed in *HALCO news* may not reflect those of HALCO board and/or staff, or funders.

(HALCO – 2015 December)