

HALCO *news*

HIV & AIDS Legal Clinic Ontario

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

Dignity

Equity

Justice



Autumn/Winter 2016

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HALCO Open House, 2016 Annual General Meeting and Annual Report 2015/2016

On Wednesday October 26, 2016, we were delighted to host our Open House and 2016 Annual General Meeting at our new office at 55 University Avenue, Suite 1400, Toronto. For more information about our new office, please see page 3.

At the Annual General Meeting, panel speakers **Dr. Evan Collins** (MD FRCPC Staff Psychiatrist, Immunodeficiency Clinic, Toronto General Hospital), **Lena Soje** (Case Manager, Client Services, Philip Aziz Centre for Hospice Care), **Ryan Peck** (HALCO Executive Director/Lawyer) and **Amy Wah** (HALCO Policy Lawyer) gave their perspectives on some of the many issues related to HIV and aging.

New board member **Noah Aiken-Klar** was elected. Board members **Marcus McCann**, **Barbara Ncho** and **Judith Odhiambo** were re-elected. Departing board member **Andrew Paizee** and continuing board members **Jessica Demeria**, **Rodney Kort**, **Andrew Mantella**, **Neesha Rao** and **Angela Smith** were all acknowledged for their innumerable contributions to HALCO. Our current board list is on page 13.

Ryan Peck presented our **2015-2016 Annual Report** and gave a summary of our activities. Ryan paid tribute to the late **Martha MacKinnon** who is memorialized in our annual report. Our annual report is available on our website:

www.halco.org/2016/news/halco-annual-report-2015-2016-is-here

Thank you to everyone who attended and helped to make our events such a success.

For more information, or to request a print copy of our annual report, please call us at telephone 416-340-7790 or toll-free telephone 1-888-705-8889, or, send an email to talklaw@halco.org



HALCO's New Office

As we have reported, we moved in late May 2016 to:

55 University Avenue, Suite 1400
Toronto, Ontario M5J 2H7

Our telephone, FAX, website and email contact information have not changed (please see last page for our contact information). Please note that staff telephone extensions have changed.

Not only is our new office accessible, it is close to the accessible St. Andrew subway station, Union Station (GO train, GO bus, VIA rail), and the Toronto City Centre airport, all of which enhance access for people visiting our office. For information about accessibility, transit and parking at our new office, please see our [HALCO Accessibility, Transit and Parking Information](http://www.halco.org/accessibility-policy) on our website: www.halco.org/accessibility-policy

In addition, our new office in the specialty legal clinic co-operative:

- promotes increased collaboration and information exchange amongst the clinics
- enables collective investment in improved information technology and equipment, and
- provides us with access to a variety of meeting spaces.

As always, HALCO's primary focus continues to be the provision of free legal services for people living with HIV in Ontario. Although we share common space with other co-located legal clinics, we have a separate office and reception area. HALCO continues to be an independent community-based legal clinic with a volunteer board of directors, the majority of whom must be living with HIV.

While we were very sorry to leave our old neighbourhood, we are pleased to welcome everyone to our new location. If you have any questions or concerns, please call us at 416-340-7790 or toll-free at 1-888-705-8889, or, send an email to talklaw@halco.org

HALCO Thanks Funders and Supporters

- Core Funders** - Legal Aid Ontario
- AIDS Bureau, Ministry of Health and Long-Term Care
- Funding Partner** - M.A.C AIDS Fund
- 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 by clicking on the [DONATE](#) button on our website at www.halco.org or by contacting us (see last page).

HALCO Welcomes Donation of Helena Kaufman Oil Paintings

HALCO was delighted to receive a donation of three beautiful original oil paintings created by the late **Helena Kaufman** (née **Guta Minc**).

Several large walls in our new office that were blankly boring are now the perfect backdrop for her lovely abstract works. Visitors and staff all benefit from the vibrancy and colour of her works that add so much to our space. We are very grateful to Ms. Kaufman's family for their generosity.

Born in Poland in 1913, Helena was awarded a scholarship to study art at the Sorbonne in Paris. Returning briefly to Poland in 1939, she pleaded with her family to flee the country to no avail. She, her husband and their infant son struggled to survive as they waited out World War II in Russia. Tragically, most of her family perished in the Shoah (Holocaust).



After the war, the Kaufmans lived in Poland and Helena pursued her studies. Facing oppression in communist Poland, they moved to Israel in 1957 and then to Canada in 1962. Everywhere she went, she held solo and group shows to critical acclaim

For more information about this amazing woman and talented artist, please see the biography provided by her family:

www.halco.org/wp-content/uploads/2016/10/KAUFMAN-Helena-artist-biography.pdf



Federal Government Recognizes Over-criminalization of People with HIV

On December 1, 2016, World AIDS Day, the government of Canada recognized the over-criminalization of HIV non-disclosure and committed to working with community to effect change. The government's press release can be found at <http://news.gc.ca/web/article-en.do?nid=1163979>

For more information, including a joint statement from HALCO and the Canadian HIV/AIDS Legal Network, please visit our website:

www.halco.org/2016/news/federal-government-recognizes-over-criminalization-of-people-with-hiv

While there remains no cure for HIV, currently available medications are effective at keeping HIV in check. People living with HIV who have access to health care and medications have more or less the same life expectancy as those who are HIV-negative. Knowledge of prevention strategies is also better than it has ever been and it is much harder to transmit HIV than generally supposed. For example, the transmission risk is negligible if not zero if a condom is used properly or if a person living with HIV is being successfully treated with antiretroviral medications.

While this new reality must not be ignored, many people, including in Ontario, face significant institutional, social and economic barriers to accessing health care and life-saving medications. Moreover, social attitudes have not nearly kept pace with science. HIV-related stigma and accompanying discrimination remain pervasive. It is shameful that, based on a 2012 Canada-wide study,

- 15% of Canadians feel afraid of people with HIV,
- 24% feel uncomfortable wearing a sweater once worn by a person living with HIV, and
- 22% feel uncomfortable shopping at a small neighbourhood grocery store owned by someone living with HIV.

Such attitudes influence action, public policy, and law. Canada's unjust criminalization of people living with HIV is an example. People are facing charges of aggravated sexual assault, which is devised for the most horrific of forced sex acts, even in circumstances where:

- sexual behaviour is consensual
- there is negligible to no risk of HIV transmission
- there is no intention to transmit HIV, and
- HIV transmission does not occur.

For many years, people living with HIV, community organizations, and legal and scientific experts have been calling for an overhaul of the current use of the criminal law in relation to HIV.



Federal Government Recognizes Over-criminalization - continues on page 6

We commend the federal government for recognizing this issue.

The Ontario Provincial Ministerial Roundtable on Criminal Law and HIV met on December 5, 2016. **Ryan Peck**, HALCO executive director/lawyer, attended the meeting as part of the Ontario Working Group on Criminal Law and HIV Exposure (CLHE <http://clhe.ca>). The federal government statement was discussed. While we were disappointed that **Yasir Naqvi**, Ontario's Attorney General, was unwilling to issue a similar statement, we welcomed his assurance that he looks forward to learning more about the federal government's approach and is open to engaging in a meaningful dialogue with the CLHE. We also welcome the comments of **Tracy MacCharles**, Ontario Minister Responsible for Women's Issues, that she too is open to working with the federal government and that the issue will be discussed at the Premier's Roundtable on Violence Against Women.

We reiterate our long-standing call for the provincial government to immediately develop guidelines for Crown prosecutors handling allegations of HIV non-disclosure. The guidelines must ensure that such prosecutions are informed by a complete, accurate understanding of current medical and scientific research about HIV; and, are 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.

New Canadian Coalition to Reform HIV Criminalization

People living with HIV, community workers, lawyers and academics from across the country met in Toronto in October 2016 to officially launch the new Canadian Coalition to Reform HIV Criminalization. **Ryan Peck**, HALCO executive director/lawyer was there.

The Coalition was founded by a group of Canadians who met at the **HIV Is Not A Crime 2 Training Academy** (www.hivisnotacrime.com) convention in Huntsville, Alabama, in May 2016. The group came together to join forces at a national level to progressively reform discriminatory and unjust criminal and public health laws and practices that criminalize and regulate people living with HIV in relation to HIV exposure, transmission and non-disclosure in Canada. The Coalition will forefront the greater involvement of people living with HIV, including people with lived experience in responding to unjust prosecutions, as well as potential avenues for advocacy at the federal level.

While the Coalition is a new initiative, it relies on years of experience in advocacy and expertise on HIV criminalization in Canada. If you want to learn more about the coalition, or if you have personal experience of HIV criminalization and are interested in getting involved, please contact ccrhc.crcv@gmail.com

Medical Assistance in Dying Law in Canada

Autonomy in medical decision-making has always been central to the HIV movement, and HALCO maintains that medical choice throughout life, including at end-of-life, is vital. A society committed to human rights ought to enhance the autonomy of all Canadians, including, of course, those living with disabilities, by ensuring access to quality health care and social services, as well as end-of-life care.

We were therefore very pleased to intervene, along with the Canadian HIV/AIDS Legal Network, in *Lee Carter, et al v. Attorney General of Canada, et al (Carter)* supporting the right to assisted dying. The Supreme Court of Canada, in *Carter*, unanimously struck down Canada's *Criminal Code (Code)* prohibition against assisted dying.

In response to the *Carter* decision, the federal government amended the *Code* in June 2016 to allow medical assistance in dying in certain circumstances. The amendments allow an adult 18 years of age or older to access medical assistance in dying where they have a "grievous and irremediable" medical condition and are capable of making decisions related to their health at the time that the assistance is provided. A person is considered to have a "grievous and irremediable medical condition" if:

- they have a serious and incurable illness, disease or disability;
- they are in an advanced state of irreversible decline in capability;
- the illness, disease or disability or state of decline causes them enduring physical or psychological suffering that is intolerable to them and that cannot be relieved under conditions that they consider acceptable; and
- their natural death has become reasonably foreseeable, taking into account all of their medical circumstances, without a prognosis necessarily having been made as to the specific length of time that they have remaining.

We take the position that the amendments do not fully incorporate the rights recognized by the Supreme Court. Because the amendments limit access to assistance in dying to those whose natural death is "reasonably foreseeable," some people experiencing intolerable suffering will not be able to access the assistance. Further, mature minors and those who are not considered capable of making health care decisions at the time assistance is provided are not able to access medical assistance in dying.

Further details about the current law, including changes to Ontario law that were passed at the time this newsletter went to press, will be shared shortly. We will continue to argue for a more robust approach to medical assistance in dying, one that includes safeguards for vulnerable persons while supporting autonomous decision-making.

If you are living with HIV in Ontario and have questions about this or any other legal issue, please contact us for free legal advice.

Interim Federal Health Program Benefits Restored

Full health care benefits have been restored for all Interim Federal Health recipients, including refused refugees

The new federal government has restored all the benefits that the previous government had cut from the Interim Federal Health Program (IFH).

The IFH program provides health care coverage for refugee claimants, refused refugee claimants, immigration detainees, and some other groups of people in Canada. As we reported in previous newsletters, the previous government made significant cuts to the IFHP in 2012. While HIV medications, doctor's visits for HIV follow-up and blood work were still covered for refused refugees, some important non-HIV related health care benefits were eliminated.

As of April 1, 2016, IFH benefits have been restored. IFH now provides health-care coverage for all eligible beneficiaries, including basic, supplemental, and prescription drug coverage. The IFH is similar to provincial/territorial health-care insurance, and includes hospital and physician services. IFH coverage for supplemental health-care services, such as vision and urgent dental care, and for prescription drugs is similar to what the provinces and territories provide to Canadians who receive social assistance.

Most importantly, all IFH beneficiaries, including refugee claimants waiting for their hearings and refused refugees, now receive the same level of health-care coverage.

Elimination of IFH expiry dates

IFH Certificates of Eligibility used to expire after 12 months so people had to apply to renew their IFH every year. In April 2016, the 12-month expiry for IFH coverage was eliminated.

Now, anyone who had valid IFH coverage on April 1, 2016 will have their coverage automatically extended in the computer systems used to manage IFH claims. If your IFH coverage was valid on April 1, 2016, you do not need to apply for a new Certificate. You can present your expired Certificate to your health care provider.

If your IFH coverage expired before April 1, 2016, then you will have to renew your IFH Certificate of Eligibility.

If you are living with HIV in Ontario and have questions about Canada's immigration, refugee or citizenship law, or any other legal issue, please contact us for free legal advice.

Ontario Basic Income Pilot Consultations

As we reported in our [summer 2016 newsletter](#) (page 8), in the 2016 Ontario budget, the Ontario government announced a “basic income pilot.”



In June 2016, the government announced that the Honourable **Hugh Segal**, a former Senator, had been appointed to develop a discussion paper to be presented in the fall of 2016.

The discussion paper has been released and is available on the Ontario government website:

<https://www.ontario.ca/page/finding-better-way-basic-income-pilot-project-ontario>

The government is seeking input and holding consultations until late January 2017:

<https://news.ontario.ca/mcss/en/2016/11/ontario-seeking-input-on-basic-income-pilot.html>

The Income Security Advocacy Centre website has information about basic income, including a link to a webinar:

<http://incomesecurity.org/public-education/basic-income-what-is-it-and-what-could-it-mean-for-social-assistance/>

If you are living with HIV in Ontario and have a legal question or problem, please contact us for free legal advice (see last page).

HALCO
HIV & AIDS Legal Clinic Ontario

ASSESSING THE
LEGAL NEEDS OF
TRANS* PEOPLE
IN ONTARIO



TRANS* LEGAL NEEDS ASSESSMENT ONTARIO

TRANSforming JUSTICE: Trans* Legal Needs Assessment Ontario Project

As many of you may know, HALCO is administering the TRANSforming JUSTICE: Trans* Legal Needs Assessment Ontario project.

The data collection phase of the project is nearing completion. While the survey is closed and focus groups completed, we are still seeking individuals for one-on-one interviews.

If you are a trans identified person living in Ontario, 16 years of age or older, willing to participate in a confidential one-on-one research interview, and answer yes to any of the following questions, we would like to hear from you:

- Are you or your partner living with HIV?
- Have you engaged in sex work?
- Have you used injection drugs?
- Have you spent time in prison?

The interview can take place in-person or over the telephone, will take approximately one hour, and offers a \$40.00 honorarium.

To set up your interview, please send an email to transneedsassess@lao.on.ca or call 647-782-8773 (you can call collect).

Once the interviews are completed and the quantitative and qualitative data analyzed, a report with recommendations will be produced.

TRANSforming JUSTICE - continues on page 11

The project uses "trans" as an umbrella term to refer to people whose gender identity or expression is not reflected by the sex assigned to them at birth, including people who identify as two-spirit, non-binary, agender, gender queer, cross dresser, transgender, or transsexual, as well as those who identify as men or women with a history that involves a gender transition.

Funded by Legal Aid Ontario (LAO) and the Ontario HIV Treatment Network, the project aims to:

- document the legal burden facing trans people in Ontario;
- identify challenges the law and legal system may pose for trans people;
- understand barriers to accessing justice and legal services; and,
- help determine and support law reform and legal service priorities.

The legal challenges and needs of trans people living with or affected by HIV are a significant focus of the project.

The project also engaged with legal service providers to understand the legal challenges of trans people from a provider perspective; to gain insight into the supports providers may need to deliver vital legal services to trans people in Ontario; and, to help increase their capacity to provide informed and inclusive services for trans clients.

Project partners include HALCO, the University of Western Ontario and the University of Toronto. HALCO is lead organization on the project and **N. Nicole Nussbaum** is the project lead.

For more information, please visit our website:

www.halco.org/our-services/trans-legal-needs-assessment-ontario



Important Change to HIV Testing and Reporting in Ontario

The reporting regulation under the *Health Protection and Promotion Act* (HPPA) changed: the names and contact information of people who test positive for HIV at anonymous testing clinics may **not** have to be reported to Public Health in Ontario.

If you have your initial HIV test at an anonymous testing clinic you may be able to use your positive anonymous HIV test code to have anonymous HIV viral load testing.

For more information please visit our website:

www.halco.org/areas-of-law/health/hiv-testing

Anonymous HIV tests are free in Ontario, and you do not need an Ontario Health Insurance Plan (OHIP) card or number to get an anonymous HIV test.

To find an anonymous HIV testing clinic in Ontario, you can contact the free, confidential **Ontario AIDS & Sexual Health Infoline** (you do not have to provide your name or information):

- English and a number of other languages: 416-392-2437 or toll-free in Ontario 1-800-668-2437
- French: toll-free in Ontario 1-800-267-7432
- website: www.toronto.ca/health/sexualhealth/aids_hotline.htm



If you test HIV positive at an anonymous HIV testing clinic, we encourage you to keep your positive anonymous HIV test code.

If you have questions about Public Health reporting requirements, we encourage you to contact us for free legal advice as soon as possible after you receive the positive anonymous HIV test result (ideally before you seek medical treatment).

HALCO

HIV & AIDS Legal Clinic Ontario

People

Welcome back Glenn!

HALCO is pleased to announce that **Glenn Betteridge** has joined our staff team as a staff lawyer (on contract). Glenn previously worked at HALCO and West Scarborough Community Legal Services, as well as the Canadian HIV/AIDS Legal Network.

HALCO Staff

- **Amy Secord** (office manager)
- **Amy Wah** (staff lawyer)
- **Clare McMullen-Crummey** (staff lawyer)
- **Glenn Betteridge** (staff lawyer)
- **Jill McNall** (community legal worker)
- **Julia Brown** (staff lawyer)
- **Khalid Janmohamed** (staff lawyer)
- **Matthew Malott** (articling student)
- **Meagan Johnston** (staff lawyer)
- **Rick Lobodzinski** (admin. assistant)
- **Ryan Peck** (executive director/lawyer)

HALCO Board of Directors

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

- **Andrew Mantella**
- **Angela Smith**
- **Barbara Ncho**
- **Jessica Demeria**
- **Judith Odhiambo**
- **Marcus McCann**
- **Neesha Rao**
- **Noah Aiken-Klar**
- **Rodney Kort**

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 Membership

HALCO's work is supported by our members. HALCO membership is free and renewed every 3 years. Please offer your support by becoming a member of HALCO.

If you are a resident of Ontario age 18 years or older, and you agree with our [Statement of Principles](#) (below), you can apply for HALCO membership.

Membership applications can be made:

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

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.**

HALCO 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

HALCO Public Legal Education Workshops

As always, our staff provide legal education workshops for groups and organizations across Ontario. Our workshops are on topics of interest to people living with HIV as well as HIV legal issues for the community in general. We also hold a series of free legal education workshops twice a year that is 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:

- HIV and the Law Overview
- HIV Disclosure and the Law: Criminal and Public Health Issues
- HIV and Immigration Law
- HIV and Privacy Law
- HIV and Private Insurance
- HIV and Employment Law
- HIV and Human Rights
- Medical Cannabis (marijuana)
- Planning for illness: legal information for people living with HIV in Ontario

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

Getting Legal Help

If you are living with HIV in Ontario and have a legal question or problem, please contact us for free legal advice at 416-340-7790 or toll-free 1-888-705-8889.

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

HALCO takes 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 day.

HALCO is a “scent-reduced environment”: please avoid wearing fragrances or scented products when coming to our office.

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 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. Prior editions are on our website: www.halco.org/our-services/our-publications/halco-newsletters

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 – 2016December)