

HALCO *news*

HIV & AIDS Legal Clinic Ontario

HALCO provides free legal services for people living with HIV in Ontario
Dignity Equity Justice



Summer 2019



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Legal Aid Ontario Funding Cuts



On April 11, 2019, the Ontario government cut funding to Legal Aid Ontario (LAO) by 30% for this fiscal year (2019-2020), with additional cuts over coming years. In addition, the government also made clear that LAO is unable to use any provincial money for refugee/immigration law services.

The HIV & AIDS Legal Clinic Ontario (HALCO) condemns these cuts in the strongest language possible. The legal aid cuts, combined with other cuts made by the province, will have a devastating impact on the people of Ontario.

Refugee/Immigration Law Services

Due to the government decision, LAO is currently limited to the funding it receives for refugee/immigration law services from the federal government. While the federal government provides some funding, it is not enough and refugee/immigration services have therefore been significantly reduced.

Currently, new legal aid certificates will be issued only for assistance with the **completion of Basis of Claim forms**, which is the document that starts a refugee claim. In other words, there will be no legal aid certificates for refugee hearings or other refugee/immigration law matters (previously issued legal aid certificates will be **honoured**). In addition, the LAO Refugee Law Offices (Toronto, Hamilton, Ottawa) will provide certain **services**. There is more information on the *News* section of LAO's website: <https://www.legalaid.on.ca/en/news/newsarchives.asp>

HALCO, however, will continue to provide an array of refugee/immigration law services. People living with HIV in Ontario can continue to contact us for free legal services. We currently have two refugee/immigration lawyers, and if we are unable to assist with a particular issue we will do our best to provide an effective referral.

It is essential that the federal and provincial governments come to an agreement on funding for refugee/immigration law services (please see **Contact Government** on page 3).

HALCO and Community Legal Clinics

On June 12, 2019, LAO announced how the budget cuts would be implemented. HALCO's funding was cut, but we continue to provide our full array of services and we encourage people living with HIV in Ontario who are in need of legal services to contact us for free legal advice (see last page).

(Legal Aid Ontario Funding Cuts - continues on page 3)

(Legal Aid Ontario Funding Cuts - continued from page 2)

Although HALCO escaped the brunt of the initial cuts, other clinics have been targeted for **large budget reductions**. We stand with those clinics. In addition, many central supports for clinics have been cut or eliminated, and all clinics have been directed to no longer “prioritize” engaging in systemic advocacy activities.

It is also important to note that **cuts** were also made to other legal aid services (see the *News* section of LAO’s website, see link on page 2).

This is the most significant attack on community legal services in Ontario’s history.

Moving Forward

These cuts will impact those least able to access justice and who rely on legal aid services such as those provided by **community legal clinics**. Legal aid services are particularly vital for those who face intersecting discrimination and issues linked to poverty, including Indigenous and racialized persons, as well as those living with disabilities, from LGBTQ2+ communities, and facing gender-based violence.

Moreover, the provincial government is currently reviewing the entire legal aid system, including the community legal clinic model. Under threat are the key principles of independent, locally based and community controlled clinics, and the mandate of clinics to provide a broad range of services including systemic advocacy.

Contact Government

Below are suggestions for reaching out to provincial and federal governments:

- **Provincial**

Email Premier **Doug Ford** and Attorney General **Doug Downey** at <https://stoplegalaidcuts.nationbuilder.com/contact>

Email your local Member of Provincial Parliament (MPP)

(you can use your postal code to find your MPP

at <https://voterinformationservice.elections.on.ca/en/election/search?mode=postalCode>).

- **Federal**

- Email Minister of Justice and Attorney General **David Lametti** (David.Lametti@parl.gc.ca), Minister of Finance **Bill Morneau** (Bill.Morneau@parl.gc.ca), and your local MP (you can use “Find MP” on <https://www.ourcommons.ca/Parliamentarians/en/members>).

- For suggested email wording, please visit our website:

<https://www.halco.org/2019/news/lao-cuts-2019july>

Criminalization of People Living with HIV - Standing Committee Report

This communication was adapted from a **statement** released by the Canadian HIV/AIDS Legal Network (Legal Network) on June 17, 2019¹. We thank the Legal Network for their incredible and long-standing work on the issue of criminalization of HIV.

After hearing from many witnesses, including people living with HIV, the HIV & AIDS Legal Clinic Ontario (HALCO), the Legal Network, and others, Canada's House of Commons Standing Committee on Justice and Human Rights, on June 17, 2019, released a report entitled "**The Criminalization of HIV Non-Disclosure in Canada**"².



The report contains several important recommendations to limit the broad, unscientific and unjust use of the criminal law against people living with HIV. We welcome many of the conclusions in this report.

The first clear stand-out recommendation is to remove HIV non-disclosure from the reach of sexual assault law. People living with HIV currently face imprisonment for aggravated sexual assault and a lifetime designation as a sex offender for not disclosing their HIV status to sexual partners, even in cases where there is little or even zero risk of transmission. We welcome the Committee's recognition of this unjust reality and their call to remove the offence from the realm of sexual assault law.

Another stand-out recommendation is limiting the criminalization of HIV to actual transmission of HIV. But we must go further. As recommended by United Nations' expert health and human rights bodies, and as indicated in a **Canadian community consensus statement**³ endorsed by over 170 organizations, criminal prosecution should be limited to cases of actual and *intentional* transmission. Criminal charges must be limited and used only as a measure of last resort. We welcome the recommendation that the federal government consult with the HIV community, including people who have been charged, prosecuted or convicted of an offence related to HIV non-disclosure, when engaging in legislative reform to restrict HIV criminalization.

(Criminalization - continues on page 5)

¹ <http://www.aidslaw.ca/site/statement-response-to-justice-committees-report-on-the-criminalization-of-people-living-with-hiv/?lang=en>

² <https://www.ourcommons.ca/DocumentViewer/en/42-1/JUST/report-28/>

³ <http://www.hivcriminalization.ca/community-consensus-statement/>

(Criminalization - continued from page 4)

However, we strongly disagree with the recommendation to extend the criminal law to other infectious diseases. Infectious diseases are a public health issue and should be treated as such. We will not solve the overuse of the criminal law against people living with HIV by punishing more people and criminalizing more health conditions.

Outside of legislative reform, we very much welcome the recommendation to review historic convictions as well as prosecutions that did not result in convictions.

Likewise, we welcome the recommendation to **improve access to HIV testing**, including anonymous testing.

The next step is actual legislative reform. The report makes clear that change to the criminal law is needed. Any new legal regime must avoid the harms and stigma caused by the law for too many years. In short, the law must be brought in line with science and human rights in a manner that is supportive of HIV care, treatment and prevention.

Access to briefs submitted to the committee and transcripts of testimony can be found here: <https://www.ourcommons.ca/Committees/en/JUST/StudyActivity?studyActivityId=10485413>

[This update is also available on our website:
<https://www.halco.org/2019/news/crim-stand-cttee-report-2019june>]

Anyone living with HIV in Ontario can contact HALCO for free legal services (please see last page).

In December 2018, we produced a factsheet on the criminal law and HIV in Ontario and it is available on our website:

www.halco.org/wp-content/uploads/2018/12/HIV-crim-Ont2018Dec.pdf



HALCO, in partnership with people living with HIV and others, will continue to engage in law reform activities to ensure that the criminal law is brought in line with science and human rights.

Changes to Social Assistance

- important ODSP/OW update

We reported on the government of Ontario's November 2018 announcement of a new direction for social assistance in Ontario. The proposed changes relate to Ontario Works (OW) and the Ontario Disability Support Program (ODSP). You can find our November 2018 update on our website:

<https://www.halco.org/2018/news/odsp-update2018nov>

In July 2019, we provided an update, which is also available on our website:

<https://www.halco.org/2019/news/odsp-update-2019july>

Our July 2019 update includes information about what people can do now as well as information about:

- OW recipients residing in First Nations communities
- changes to how earned income is treated
- ending of the Transition Child Benefit in November 2019
- overpayments being recovered at 10%
- ending of social assistance Addiction Services Initiative in July 2019.

(These changes will not be implemented at this time for OW recipients who reside in First Nations communities because the government announced a commitment to engage with First Nations on a plan for implementing reform. As a result, implementation of some changes for First Nation Ontario Works delivery partners is deferred, with the government expecting a report in May 2020.)

HALCO is working with others to respond to these changes. We will provide updates as more information becomes available.

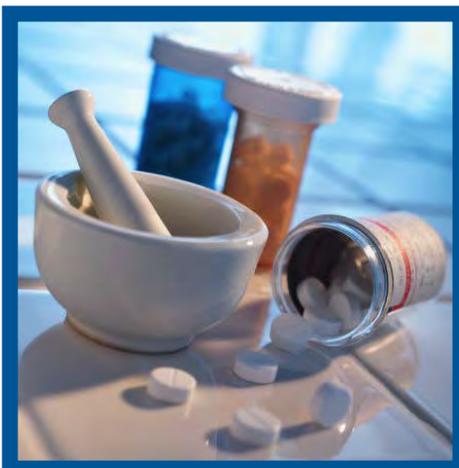
If you are living with HIV in Ontario, please [contact us](#) for free legal advice about ODSP/OW, social assistance or any other legal issue (please see last page).

OHIP+ prescription drug coverage for young people age 24 and under - no longer universal as of April 2019

As of April 1, 2019, OHIP+ free prescription drug coverage for children, youth and young adults age 24 and under is no longer universal. OHIP+ coverage continues for people age 24 and under who do not have private insurance. People age 24 and under who receive Ontario Works/Ontario Disability Support social assistance, professional home care services, or who are resident in certain care homes are eligible for the Ontario Drug Benefit program without any deductibles or co-payments, whether they have access to private insurance drug coverage or not.

People age 24 and under who are in any way captured by private insurance drug coverage no longer have any drug coverage under OHIP+. It does not matter whether the private insurance actually covers the drug(s) prescribed, or, if there are deductibles, co-payments or other limits. If they or their families are left with significant prescription drug costs that are not covered by the private insurance, they can access the Trillium Drug Program.

You can find more information about the OHIP+ changes on our website: <https://www.halco.org/2019/news/ohip-plus-is-changing-apr-1-2019>



We have serious concerns with the dismantling of OHIP+. Please see our submissions to the Ministry of Health and Long-Term Care: <https://www.halco.org/2019/news/lao-cuts-2019july>

If you are living with HIV in Ontario and have questions about or problems with OHIP+, or concerns about access to prescription medications, please contact us for free legal advice (please see last page).

Criminal Injuries Compensation

- changes to process and award amounts

On April 11, 2019, the Ontario government announced that the current *Compensation for Victims of Crime Act* (the “Act”) will be repealed and replaced with an administrative process.

The Act sets out Ontario’s financial compensation program for people injured as a result of crimes of violence. Individuals responsible for the support of the victim and dependants of deceased victims may also apply for compensation. Under the Act, individuals can apply to the Criminal Injuries Compensation Board (CICB) for compensation. CICB can award compensation for the following:

- pain and suffering
- expenses as a result of the injury or death
- loss of money including loss of income
- support of a child born as a result of sexual assault
- other costs and expenses that the Board considers reasonable.

Under the new administrative process announced by the government, applications will no longer be adjudicated by a tribunal and there will no longer be hearings. A cut-off date for applications under the existing Act will be announced. Otherwise, there was very little information about the new process at the time this article was written.

In addition to creating an entirely new process, the government announced changes to the current CICB process. For all decisions made after May 29, 2019, the maximum amount of compensation for pain and suffering has been set at \$5,000 (prior to May 29, 2019, pain and suffering did not have a specific limit but was part of the overall compensation maximums). In addition, the overall maximum lump sum compensation was changed from \$25,000 to \$30,000. Other compensation maximums, including those related to periodic payments, were not changed.

If you think you may be eligible to apply to the CICB for compensation, we encourage you to get legal advice as soon as possible. If you are living with HIV, please contact us for free legal advice. Please see the back page for information about getting legal help.

Canada Pension Plan - changes

The government of Canada implemented some enhancements to the Canada Pension Plan (CPP) on January 1, 2019.

Survivor benefit age restriction eliminated

Prior to January 1, 2019, to be eligible for a CPP survivor pension, there were age-related requirements for the surviving spouse/partner of a deceased CPP contributor. The age restriction has been eliminated so a surviving spouse/partner of any age may now be eligible. If your spouse/partner died prior to 2019 and you are not receiving a survivor benefit or your survivor benefit application was denied based on your age at the time of your spouse/partner's death, you may be eligible for a survivor benefit now but you will have to apply. CPP also provides a survivor benefit for surviving children of deceased contributors.

Death Benefit is now \$2,500 for all deceased contributors

The amount of the CPP Death Benefit used to be based on the contributor's CPP contributions so the amount varied. The Death Benefit is now \$2,500 for all deceased contributors who died on or after January 1, 2019.

New Post-Retirement Disability Benefit for disabled retirement pension recipients who are under age 65

People who are receiving CPP early retirement benefits (under age 65), who become disabled but are not eligible for CPP disability benefits, can now receive a new flat rate Post-Retirement Disability Benefit in addition to their early retirement pension. The contribution requirements are similar to the CPP disability requirements. Children of people who receive this new disability benefit are eligible for the Disabled Contributor's Child's Benefit.

CPP contribution and benefit rates gradually increase

In 2019, the government began to increase the CPP contributions that people make from their earnings as well as the contributions their employers make.

As a result, CPP benefit rates will eventually increase. The government of Canada website has more information about CPP rate enhancement:

<https://www.canada.ca/en/services/benefits/publicpensions/cpp/cpp-enhancement.html>



If you have questions about your CPP eligibility, please contact us for free legal advice (see back page).

Canada Pension Plan Disability and Long-Term Disability Benefits - disappointing decision

In January 2019, the Human Rights Tribunal of Ontario (HRTO) released a disappointing decision that the deduction of Canada Pension Plan Disability (CPP-D) from long-term disability (LTD) benefits does not discriminate on the basis of disability.

HALCO, the Income Security Advocacy Centre (ISAC) and ARCH Disability Law Centre intervened at the HRTO.

Long-term disability (LTD) benefits provide vital income for workers who are unable to work due to disability. LTD benefits are usually less than the amount that the worker earned while working. With less income, the worker may struggle to pay their usual expenses and find it difficult to pay increased expenses they may have as a result of their disability.

Canada Pension Plan (CPP) benefits include CPP Disability (CPP-D) benefits for workers who are unable to work due to a severe and prolonged disability. Workers with less severe or prolonged disabilities who may be eligible for LTD may not be eligible for CPP-D.

LTD providers generally deduct a worker's CPP-D benefits from their LTD benefits. As a result, the CPP-D benefits do not result in any increase in the total amount of benefits that the worker receives. Here is an example: a worker who is eligible for \$1,200 per month from LTD and \$800 per month from CPP-D will only receive \$400 in LTD for a total of \$1,200. The result is that the LTD provider is actually paying less to workers who qualify for CPP-D.

In its decision, the HRTO:

- did not accept that insurance companies are discriminating against CPP-D beneficiaries.
- concluded that private insurance LTD policies guarantee beneficiaries a certain amount of their income replaced every month, but not that the insurance company will be the sole source of that income replacement.

Since the combined income of people getting private insurance without CPP-D deductions is the same as the income of people getting private insurance with CPP-D deductions, the HRTO concluded there was no discrimination and dismissed the claim. For more information:

- Our intervener submissions: www.halco.org/2018/news/cpp-d-deduction-from-ltd
- HRTO decision: <https://www.canlii.org/en/on/onhrt/doc/2019/2019hrto101/2019hrto101.pdf>
- ISAC response to the decision: <http://incomesecurity.org/litigation/human-rights-tribunal-ruling-on-insurance-companies-and-cpp-d-reilly-v-ford/>

Landmark Patient Rights Decision

The College of Physicians and Surgeons of Ontario requires that if a physician objects to a certain medical service because of religious beliefs, they must provide an “effective referral” to another practitioner who is willing to provide that service.

A group of physicians applied to the Ontario Superior Court of Justice to argue that the *Canadian Charter of Rights and Freedoms* gives them a legal right to refuse to provide their patients with even an effective referral if they believed that providing such health services did not align with their personal religious/conscience beliefs. HALCO, the Canadian HIV/AIDS Legal Network and the Canadian Professional Association for Transgender Health jointly intervened.



The Ontario Superior Court of Justice (Divisional Court) rejected the physicians’ arguments in its decision in early 2018, and made clear that physicians have an obligation to provide an effective referral to another health care provider if they do not want to provide a service based on their religious/conscience beliefs.

The physicians appealed the decision, and in May 2019, the Court of Appeal upheld the lower court decision requiring effective referrals. Here is a link to the Court of Appeal decision: <http://www.ontariocourts.ca/decisions/2019/2019ONCA0393.htm>

We commend the decision that ensures that personal beliefs cannot trump meaningful access to medical services.

You can read our Statement by the Intervenors on our website:

- English: <https://www.halco.org/wp-content/uploads/2019/02/Relig-Docs-Statement-2019Jan18.pdf>
- Déclaration (Français) : <https://www.halco.org/wp-content/uploads/2019/02/Relig-Docs-Statement2019Jan18-FR.pdf>

Changes to Refugee and Immigration Law

There have been many recent changes to immigration/refugee law in Canada. This update provides an overview of some of the changes but there is uncertainty about how some will operate.

In April 2019, the federal government introduced significant changes to the immigration and refugee system as part of the *Budget Implementation Act, 2019*. The changes became law on June 21, 2019.

Eligibility to Make a Refugee Claim in Canada

The most significant change is about who is **eligible** to make a refugee claim in Canada (i.e., who can make a claim and have their claim heard and decided by the Refugee Protection Division of the Immigration and Refugee Board).

For many years, Canada and the United States have had the Safe Third Country Agreement, which requires that most refugee claimants who arrive at a port of entry on the Canada/U.S. border be refused entry (exceptions are made for unaccompanied minors, people with close family members in Canada, and some others). Since the Agreement only applies to refugee claimants who enter at official border ports of entry, people may avoid being refused entry by crossing the border “irregularly” (not at a port of entry).

The June 2019 change in law means that people are not eligible to make a refugee claim in Canada if they have made a refugee claim in a country that has an information sharing agreement with Canada. Canada currently has information sharing agreements with the **United States, Australia, New Zealand,** and the **United Kingdom**. People who made refugee claims in any of these countries cannot make a refugee claim in Canada. The **outcome** of their claim in the other country does not matter.



(Refugee and Immigration Law - continues on page 13)

Who is Not Eligible to Make a Refugee Claim in Canada?

At the time that this update was written, the following people are not eligible to make a refugee claim in Canada:

Anyone who initiated their refugee claim in Canada on or after April 8, 2019:

- who had made a complete refugee claim in the United States, Australia, New Zealand, or the United Kingdom regardless of the outcome of the claim (the definition of a complete claim will vary depending on the laws and procedures of each country); **and**
- no significant evidence in their claim had been heard by Canada's Refugee Protection Division by June 21, 2019; **and**
- no decision had been made in their claim by June 21, 2019.

Whose Eligibility to Make a Refugee Claim Is Still Unclear?

When this update was written, it was still unclear if the following are eligible to make a refugee claim in Canada:

- People who tried to make refugee claims in the United States, Australia, New Zealand, or the United Kingdom but were unable to do so for some reason (for example, people who tried to make a refugee claim in the United States but were unable to do so because they had been in the United States for more than one year).
- People who requested preliminary status in one of the four countries before making a complete refugee claim (for example, credible fear process in the United States).
- People who benefited from other kinds of refugee-like protection in one of the four countries (for example, people who have been granted protection under international or domestic laws that are similar to the Refugee Convention).
- People who approached Canadian immigration authorities on or before April 7, 2019, but whose claims were not referred to the Refugee Protection Division by April 7, 2019. Claims are referred to the Refugee Protection Division after an officer of the Canada Border Services Agency or Immigration, Refugees and Citizenship Canada determines that the claimant is eligible for refugee protection in Canada. If a claim has been referred to the Refugee Protection Division, claimants will have received a Confirmation of Referral form that includes information such as the deadline to submit their Basis of Claim form, the special hearing date for abandonment if their Basis of Claim form is not submitted on time, and other information regarding the processing of refugee claims in Canada.

What Happens to People Who Are Ineligible Under the New Regulations?

People who are ineligible under the new regulations will have their refugee claims terminated and will have access to an “Enhanced Pre-Removal Risk Assessment” (Enhanced PRRA). An Enhanced PRRA is a paper-based application with short timelines to submit application forms (15 days) and to submit evidence and written submissions (30 days).

The applicant will have an oral hearing before an officer from Immigration, Refugees and Citizenship Canada. Mandatory oral hearings are new to the PRRA process and it is not clear how the process is going to work. Applicants will be allowed to have a lawyer present at the hearing.

While people are waiting for the Enhanced PRRA decision, they are not permitted to submit a humanitarian and compassionate application.

Some Other Important Changes

People Whose Refugee Claims Have Been Refused

People whose refugee claims have been refused are not allowed to submit a Pre-Removal Risk Assessment [PRRA], Temporary Resident Permit application, or humanitarian and compassionate application for 12 months:

- from the date of the most recent negative decision from the Refugee Protection Division, Refugee Appeal Division, or previous PRRA; **or**,
- from the date of the Federal Court decision confirming a negative decision from the Refugee Protection Division, Refugee Appeal Division, or previous PRRA.

Until the June 2019 changes, the 12 month period was calculated from the date of refusal from the Refugee Protection Division, Refugee Appeal Division, or previous PRRA.

The 12 month bar on humanitarian and compassionate applications does not apply to people who would be denied life-sustaining medical care if they were removed from Canada (including many people living with HIV) or cases that raise the best interests of any affected child. In addition, there are exceptions to the 12 month bar for individuals from certain countries where there have been significant changes in country conditions since the time that a refugee claim or previous PRRA was decided.

Work Permit Applications Now Online

As of June 4, 2019, most people applying to get or extend a work permit from inside of Canada must apply online. Exceptions have been made for people with disabilities that prevent them from completing the online application. Some others, including refugee claimants, will continue to be able to submit paper applications.

New Temporary Resident Permit for Cases of Family Violence

As of July 26, 2019, Immigration, Refugees and Citizenship Canada officers can issue a Temporary Resident Permit, open work permit, and healthcare coverage through the Interim Federal Health Program to people (and their dependent children) without valid immigration status in Canada who are experiencing family violence. This program is open to people in Canada who are experiencing abuse (physical, sexual, psychological, financial) or neglect from their spouse or common-law partner, and whose ability to seek permanent residence in Canada requires them to remain in this abusive relationship. There is **no fee** for this application.

Open Work Permits for Vulnerable Workers

Migrant workers in Canada on employer-specific work permits who are experiencing abuse (physical, sexual, psychological, financial) or who are at risk of abuse may be eligible for an open work permit. The open work permit will allow vulnerable migrant workers to leave abusive employers and to work for other employers.



As this is a new program, it is not clear how Immigration, Refugees and Citizenship Canada will define “at risk of abuse.” Family members of workers who are applying for open work permits under this program and who are currently in Canada will also be eligible to obtain open work permits. There is **no fee** for this application.

Home Child-Care Provider Pilot and Home Support Worker Pilot

The new **Home Child-Care Provider Pilot** and **Home Support Worker Pilot** programs replace the previous Live-In Caregiver program. Applicants will have to show that they meet the requirements for permanent residence before they are approved for the program. Those who are approved will be granted occupation-specific (rather than employer-specific) work permits and will be eligible to bring their spouses and dependent children to Canada with them. Accompanying family members will be eligible to apply for work and study permits. Once the pilot program worker has 2 years of Canadian work experience, they will be eligible to apply for permanent residence.

“X” Gender Identifier on Passports and Immigration Documents

As of June 4, 2019, Immigration, Refugees and Citizenship Canada offers the choice of an “X” gender identifier for those who do not identify as male or female for Canadian passports and immigration documents. Applicants can select the “X” gender identifier on the application form for new documents or for documents that will expire in less than 6 months. People who have a document that is valid for 6 months or longer, or that has no expiry date can apply to replace their document with one that has an “X” gender identifier without paying a new application fee.



Getting Legal Help

These changes come at an especially difficult time, as legal aid for immigration and refugee law matters in Ontario has been significantly reduced (see article starting on page 2).

If you are living with HIV in Ontario, you can contact us for free legal advice about any immigration or refugee-related issues. Please contact us as soon as possible if you have been found ineligible to make a refugee claim or your refugee claim has been terminated. Not only do we want to make sure that you get legal assistance, we are also working with other immigration and refugee lawyers to challenge these changes in court. You can find more information about getting help from HALCO on page 21.

HALCO highlights



Casework (April 1, 2018, through March 31, 2019):

- HALCO staff responded to 3,665 legal issues.

Public Legal Education (April 1, 2018, through March 31, 2019):

- We provided 115 public legal education workshops at events, conferences and community organizations across Ontario. For information about our public legal education workshops, please see page 22.
- We produced our Winter 2018-2019 [newsletter](#).

Law Reform and Community Development:

www.halco.org/our-services/law-reform-community-development

Some of our recent activities include:

- **Criminalization of HIV non-disclosure - Standing Committee Report:** see article on page 4.
- **HIV decriminalization changes welcome but not enough:** Lawyer's Daily article by HALCO's Ryan Peck (2019July):
<https://www.halco.org/2019/news/decrim-lawyerdaily-2019july>
- **Landmark Patients Rights Case at Court of Appeal for Ontario:** see article on page 11.
- **Amendments to the Mandatory Blood Testing Act** in Bill 68 (*Comprehensive Ontario Police Services Act, 2019*): submissions by HALCO, Canadian HIV/AIDS Legal Network and other organizations to Ontario Standing Committee on Justice Policy regarding involuntary testing for HIV, viral hepatitis or potentially other infectious diseases (2019March):
https://www.halco.org/wp-content/uploads/2019/07/Bill68_subs-2019Mar.pdf
- **OHIP+ Regulation Amendment:** see article on page 7.

(HALCO highlights - continues on page 18)

- **Trusts and Access to Social Assistance:** Supreme Court finds that certain trusts are exempt for the purpose of social benefits (2019January):
 - Decision: <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/17473/index.do>
 - Statement and our intervener legal arguments: <https://www.halco.org/2018/news/trusts-and-social-assistance-scc-2018>

- **Deduction of Canada Pension Plan Disability benefits from Long-Term Disability benefits:** see article on page 10.

- **Ontario Sexual Education Curriculum**

In August 2018, the Ontario Minister of Education issued a Directive requiring all elementary public school teachers (grades 1 to 8) to use the 2010 Health and Physical Education (HPE) Curriculum for the 2018-2019 school year, rather than the newer 2015 HPE Curriculum that included up-to-date information related to HIV and HIV stigma, sexual orientation, gender identity, same-sex relationships, and issues of consent. The Directive was challenged in court, and HALCO and the Canadian HIV/AIDS Legal Network intervened. The Ontario Superior Court of Justice (Divisional Court) released its decision in February 2019, which confirmed that the *Canadian Charter of Rights and Freedoms (Charter)* and the *Ontario Human Rights Code* require that sexual health education be taught in an inclusive way. However, the Court ultimately found that the Directive did not breach the *Charter*. Using the 2010 HPE curriculum was an interim measure until a new HPE curriculum was developed. The government announced that it will introduce a new HPE curriculum to be taught beginning with the 2019-2020 school year, but at the time this newsletter was written, it has not been issued.

 - Ontario government information about the public elementary Health and Physical Education curriculum:
<http://www.edu.gov.on.ca/eng/curriculum/elementary/health.html>
 - Court decision:
<https://www.canlii.org/en/on/onscdc/doc/2019/2019onsc1308/2019onsc1308.html>
 - statement by interveners HALCO and Canadian HIV/AIDS Legal Network (2019January): <https://www.halco.org/wp-content/uploads/2019/02/Sex-Educ-Statement-2019Jan8.pdf>



HALCO

HIV & AIDS Legal Clinic Ontario

People

Staff Update

Welcome Debbie Rachlis and David Cote

Debbie and David joined us in January 2019 as our two immigration lawyers. David is filling in for Meagan Johnston while Meagan is on leave. With strong backgrounds in immigration/refugee law, Debbie and David are very welcome additions to our HALCO team.

Articling Student Eddy Carroll is now one of our lawyers

Eddy joined us in July 2018 as our articling student for the 2018-2019 year. In June 2019, we were pleased when Eddy accepted the position of staff lawyer (contract).

HALCO Board of Directors

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

- **Jessica Demeria** (secretary/treasurer)
- **Judith Odhiambo**
- **Marcus McCann** (vice-chair)
- **Maureen Owino**
- **Noah Aiken-Klar**
- **Robert Maich**
- **Robert Newman** (chair)
- **Sari Feferman**
- **Shazia Islam**

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

- **Amy Secord** (director of administration)
- **David Cote** (staff lawyer - contract)
- **Eddy Carroll** (staff lawyer - contract)
- **Jill McNall** (community legal worker)
- **Meagan Johnston** (staff lawyer - on leave)
- **Robin Nobleman** (staff lawyer)
- **Amy Wah** (staff lawyer)
- **Debbie Rachlis** (staff lawyer)
- **Glenn Betteridge** (staff lawyer)
- **Khalid Janmohamed** (staff lawyer)
- **Rick Lobodzinski** (admin. assistant)
- **Ryan Peck** (executive director/lawyer)

Legal Information and Legal Advice

It is important to understand the difference between legal information and legal advice.

Legal information is general and includes information that someone tells you and information in pamphlets, newsletters, websites, etc. Legal information can help you:

- identify a legal problem or issue.
- prepare to get legal advice.
- find legal advice.

Legal Advice is about you and your situation. Each person's situation is different and laws change all the time. If you have a legal question or problem, you need legal advice.

Who Can Give Legal Advice

Generally, only licensed lawyers and paralegals can provide legal advice in Ontario. There are some exceptions (see LSO website link below), but a licensed lawyer or paralegal would be the most appropriate source for legal advice for most individuals in Ontario who have a legal question or problem.



The Law Society of Ontario - LSO (formerly Law Society of Upper Canada) regulates the provision of legal services in Ontario. The LSO:

- regulates who can provide legal services.
- licenses lawyers and paralegals.
- sets rules for lawyers and paralegals, including rules related to confidentiality, insurance, and continuing professional development requirements.
- provides complaint mechanisms.



For more information about who can provide legal advice, please visit the LSO website: <https://lso.ca/public-resources>

For more information about getting free legal advice from HALCO, please see the next page.

For general information about getting legal help, please see the last page.

Getting Help from HALCO

- intake process for new inquiries

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

Anyone living with HIV in Ontario can call us for free legal advice about any legal issue (the issue does not have to relate to HIV). There is no financial eligibility for our free legal advice service.

You can call us at 416-340-7790 or toll-free at 1-888-705-8889. During the summer, we take new inquiries for legal advice: **Monday and Wednesday from 9 a.m. to 5 p.m., and Friday from 9 a.m. to 3 p.m.** (not Tuesday or Thursday). The person who has the question or legal problem should be the one to **contact us**. Interpreters are available. When you call us about a new legal issue, we will go through our intake process with you.

You do not need an appointment for intake but depending on how busy we are, you may have to wait to speak with the lawyer on intake.

Many legal matters have time limits called “limitation periods”. Please **contact us** as soon as you have a question or problem so that we can have enough time to try to help. Some matters may be complex and take a long time, while others may be brief.

Through our intake process, our staff will ask you questions and may:

- provide legal advice
- provide a brief service
- help you to represent yourself
- represent you for your case, and/or
- provide a referral to other services.



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

We welcome your feedback and we also have a Complaint Process if you are not satisfied with our services.

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

HALCO staff organize, conduct and participate in public legal education events across Ontario and provide workshops on topics of interest to people with HIV as well as HIV-related legal issues for the broader community.

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
- Changes to Social Assistance/Ontario Disability Support Program
- HIV and Immigration Law
- HIV and Privacy Law
- HIV and Employment Law
- HIV and Human Rights
- Medical Cannabis
- 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).

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

HIV & AIDS Legal Clinic Ontario

HIV & AIDS Legal Clinic Ontario

Telephone: 416-340-7790 / 1-888-705-8889

55 University Avenue, Suite 1400 (14th floor)

Toronto, Ontario M5J 2H7



website: www.halco.org

Getting Legal Help

If you are living with HIV in Ontario and have a legal question or problem about any issue (it does not have to relate to HIV, please **contact us** for free legal advice at 416-340-7790 or toll-free 1-888-705-8889. For more about getting help from HALCO, please see page 21.

People in Ontario can contact their local community legal clinic to ask about local services: www.legalaid.on.ca/en/getting/type_civil-clinics.asp

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

HALCO is a registered charity funded by Legal Aid Ontario, the Ministry of Health, 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 licensed lawyer/paralegal 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.

Previous editions are on our website:

www.halco.org/our-services/our-publications

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 – 2019 August - revised)