



HALCO

HIV & AIDS Legal Clinic Ontario

Free legal advice for people living with
HIV in Ontario

Annual Report

2022/2023

The HIV & AIDS Legal Clinic Ontario (HALCO) is a not-for-profit charitable organization founded in 1995.

HALCO's Mission

The mission of HALCO is to provide legal services to persons living with HIV in Ontario that are relevant to their well-being and that enable them to participate fully in the communities in which they live.

HALCO's Vision

HALCO's vision is a society where laws and the legal system help reduce discrimination, stigma, poverty and injustice faced by people living with HIV.

HALCO's Statement of Principles

It is agreed that:

1. People living with HIV are confronted with unique legal problems of enormous proportions and complexity;
2. Those best equipped to make choices regarding HIV issues and problems are those individuals who are HIV positive themselves;
3. People living with HIV must have control over their own lives;
4. The HIV affected communities are very diverse and are confronted by overwhelming challenges derived from both their diversity and their common experience as people living with HIV;
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; and
6. The confidentiality, bodily security, autonomy, and privacy of people living with HIV 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 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 to consent, or withhold their consent, in all matters affecting them.

Message from the Chair and Executive Director

The land on which the staff and board of HALCO live and work is the home and traditional territory of many Indigenous Peoples who have respected and cared for this land since time immemorial. Taking the lead from Indigenous communities, we work to address the ongoing injustices and resulting health inequities faced by Indigenous Peoples, which contribute to the disproportionate impact of the HIV epidemic on Indigenous communities. We are committed to further learning to work in solidarity and to dismantling and decolonizing practices and institutions to respect Indigenous Peoples and Indigenous ways of knowing and being.

On behalf of the board of directors and staff of the HIV & AIDS Legal Clinic Ontario (HALCO), we are very pleased to provide our annual report for the period of April 1, 2022 to March 31, 2023.

With the COVID-19 pandemic slowly receding, but still causing vast harm, and in the face of ongoing crises including those related to drug policy, racism, and economic inequities, we continued to do what we have always done: fight with our friends and partners to bring about social, economic, racial and health justice.

By taking the lead from people living with HIV and working with allies on common struggles, we were able to accomplish much during the reporting year. For example, we handled over 2,000 legal issues, conducted over 40 workshops and intervened in appeal courts on issues relating to refugee law and sex work. We also continued to do our utmost to alter the current approach to HIV criminalization by fighting to bring the law in line with science and human rights in a manner that is supportive of HIV-related care, treatment, support and prevention.

Your ongoing support of and participation in our activities is invaluable and warmly appreciated. Highlights of some of the activities of HALCO's busy year are outlined in the pages that follow.

Eric Peters
Chair, Board of Directors

Ryan Peck
Executive Director, Lawyer

Casework

Since opening our doors in 1995, our primary focus has been direct legal services for people living with HIV in Ontario. Referred to as “casework,” these services are comprised of intake (summary advice, brief services and referrals) and representation services. Our areas of legal practice include:

- Income Maintenance
- Tenancy
- Immigration/Refugee
- Human Rights
- Privacy
- Health

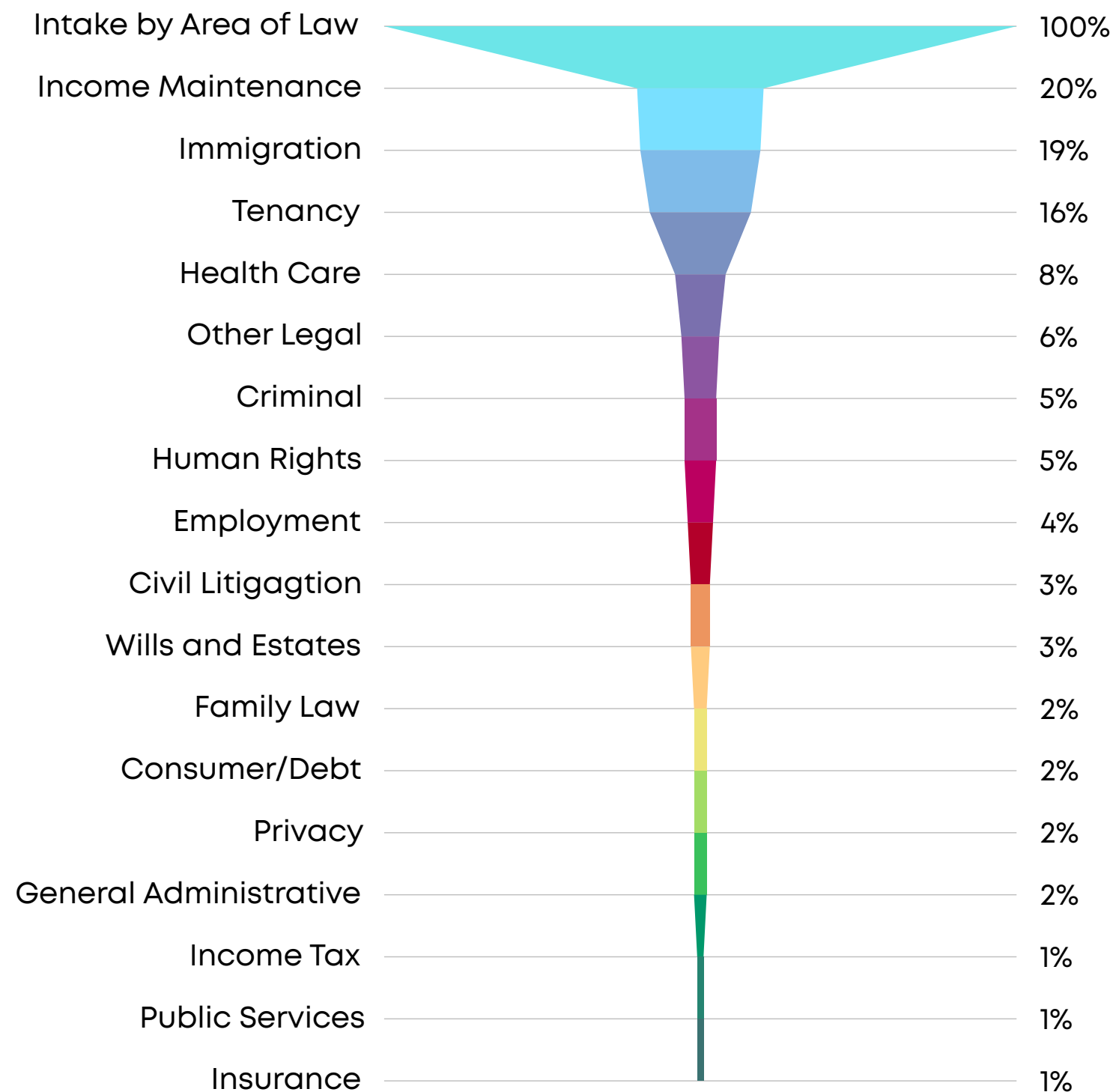
Intake - Advice, Brief Services and Referrals

HALCO continues to devote much of its resources to intake services, which are available free of charge to all people living with HIV in Ontario.

We handled 2,083 legal issues in this reporting period. Income maintenance issues comprised 20% of intakes, immigration/refugee matters 19%, and tenancy matters 16%. The remainder were extremely varied, including health, human rights and privacy law matters.

The chart on the next page provides a breakdown of HALCO’s intake services for 2022-2023:

HALCO intake services by area of law (April 1, 2022 to March 31, 2023)



Representation

In addition to intake services, HALCO staff provide legal representation to financially eligible people living with HIV in Ontario. For this reporting period, we opened 104 case files. A case file may be opened to handle a legal matter for an individual (e.g., representation at the Human Rights Tribunal of Ontario or Social Benefits Tribunal) or it may be a test case with the potential to benefit many people living with HIV.

Immigration/refugee issues comprised 31% of our casefiles, income maintenance matters 20%, and tenancy matters 20%. We also assisted clients with various other legal issues, including human rights and health law issues.

Casework examples include:

- assisted a client to obtain job reinstatement (with full seniority) after an improper employment termination
- assisted clients to gain and maintain access to coverage for medications
- assisted clients with complaints to public health units which resulted in apologies and training for public health staff
- assisted a client to settle a court matter against a housing provider involving discrimination on the basis of disability and gender identity
- assisted a client to obtain a waiver of the Canadian citizenship test based on gender discrimination in their country of origin that resulted in illiteracy
- assisted a client to obtain permanent resident status under a special program for refugee claimants who worked in the health care sector during the COVID-19 pandemic

Law Reform and Community Development

HALCO continuously strives to improve laws and the legal system to better meet the needs of people living with HIV. Our law reform activities seek to involve as many and as broad a range of individuals living with HIV as possible. For example, we intervene in court matters, provide submissions to governments, participate in campaigns, and take part in working groups (e.g., HIV Outpatient Clinic Network, Legal Aid Ontario Board of Directors' Clinic Law Advisory Committee).

Our primary law reform activities during this reporting period focused on (i) criminalization of HIV non-disclosure; (ii) access to justice for trans people in Canada; and (iii) health and human rights.

In addition to these core activities, which are explained in more detail below, examples of law reform and community development activities included the following:

- Intervened at the Supreme Court of Canada in the constitutional challenge to the Safe Third Country Agreement legislation that makes many people ineligible to apply for refugee status if they come to Canada through the United States
- Intervened at the Ontario Superior Court of Justice in the constitutional challenge to sex work laws that place sex workers at risk of harm
- Contributing to Ombudsman Toronto's investigation into Toronto Community Housing Corporation's human rights practices and procedures
- Submission to the Canadian Human Rights Commission regarding the privacy of complainant information

Criminalization of HIV Non-disclosure

Canada continues to be a place where people living with HIV are unjustly over-criminalized. There have been more than 225 prosecutions in Canada, the overwhelming majority taking place after 2004. While the number of prosecutions has thankfully decreased in recent years, Canada remains the only country known to use aggravated sexual assault charges in relation to HIV non-disclosure, even when (i) there is no allegation of transmission of HIV; (ii) there is no intention to transmit; and (iii) the sexual activity in question poses negligible to zero risk of transmission.

The consequences related to HIV criminalization, which have a disproportionate impact on Indigenous and Black people, as well as gay, bisexual, and other men who have sex with men, are extremely serious. For example, a conviction leads to a maximum life sentence and presumptive lifetime inclusion on sex offender registries. In addition, for those who are not Canadian citizens, a conviction generally leads to deportation.

Over-criminalization is also harmful from a public health perspective. It hinders HIV prevention efforts and hampers care, treatment and support for those living with HIV by providing disincentives for HIV testing and deterring honest and open conversations with health care and other providers, including public health authorities, for legitimate fear that such conversations will be used in court.

HALCO, in conjunction with people living with HIV and others, continues to play a leading role in efforts to reform the law. To ensure that the law is informed by up-to-date science and human rights principles, we continue, among other activities, to:

- provide legal assistance to people living with HIV
- work with criminal lawyers to ensure the best possible representation for people
- produce public legal education materials and conduct public legal education workshops for people living with HIV, service providers, students and others
- intervene in matters of importance in courts across Canada
- engage with the federal government on law reform

One of the many extremely harmful impacts of the current use of the criminal law is experienced by sexual assault complainants living with HIV who could potentially be transformed from complainants to accused persons in a criminal matter. As a result, it is critical that sexual assault complainants living with HIV have access to accurate information regarding potential criminal repercussions of reporting sexual violence before they approach police. To this end, in partnership with other lawyers, we produced training material for lawyers assisting people living with HIV who experience sexual violence.

In order to bring about legal reform, we continued to do our utmost to convince courts to change the current overbroad and unjust approach to HIV criminalization. While we continue to press the courts to do more to change the current approach, we welcome the Supreme Court of Canada decision in *R. v. N.* that holds that the law requiring mandatory inclusion on the national sex offender registry, after convictions for certain sexual assault offences, including those related to HIV, is unconstitutional.

While appearing before courts is essential, it remains clear that legislative reform is required to bring the law in line with science and human rights. To make this a reality, we continued to work on legislative reform to the *Criminal Code*. In particular, as laid out in the 2022 Consensus Statement produced by the Canadian Coalition to Reform HIV Coalition, and endorsed by over 100 organizations, the following is required:

- removal of non-disclosure, exposure or transmission of HIV or other sexually transmitted or blood-borne infections from the reach of sexual assault laws, including the designation as a sex offender
- limit of prosecutions to the actual, intentional transmission of HIV
- end of deportations of non-citizens following conviction
- review of past convictions

In fall 2022 we provided a submission to the federal government in response to their public consultation on *Criminal Code* reform. We also met with the Minister of Justice and government officials. It is imperative that the federal government act immediately and introduce reform to once and for all bring the criminal law in line with science and human rights in a manner that is supportive of HIV-related care, treatment, support and prevention.

Access to Justice for Trans People in Canada

In February 2023, HALCO, the Canadian Bar Association, and the TRANSforming JUSTICE: Trans Legal Needs Assessment Ontario (TRANSforming JUSTICE) Research Team released the *Access to Justice for Trans People* report. The report includes recommendations flowing from TRANSforming JUSTICE, a mixed-method assessment/research study administered by HALCO regarding the legal needs of trans people in Ontario.

Access to Justice for Trans People uses “trans” as an umbrella term to refer to a diverse array of experiences and identities, and we acknowledge that the use of the word “trans” and the identities encompassed within it varies and is evolving. It is also important to note that the term “Two-Spirit” is claimed by some Indigenous persons who may also self-identify as trans, but that the term should not be conflated with Western sexuality and gender identities.

The report makes many recommendations to improve access to justice for trans people, which are meant to be a starting point for future discussions and measures to address the issues trans communities face in Canada. As the report states that many of the root causes of people’s legal issues stem from the legal system itself, broad systemic change is required to truly address the lack of access to justice for trans people.

Health and Human Rights

The report notes that trans participants in TRANSforming JUSTICE reported experiencing a disproportionate number of legal problems compared to the general population in Canada. Many of them also reported experiencing multiple legal problems simultaneously, and that they were generally reluctant to seek help or access the legal system for various reasons, including experiences of discrimination by actors in the legal system as well as the lack of adequate legal services and accessible and trans-specific legal information.

Among other things, the report highlights that trans people must be supported to lead the further development and implementation of all recommendations. Further, this work must be done in a way that respects the sovereign rights of the Indigenous Peoples of Canada, incorporates Indigenous justice approaches, and responds to Calls to Action of the Truth and Reconciliation Commission of Canada and Calls for Justice of the National Inquiry into Missing and Murdered Indigenous Women and Girls. In particular, Indigenous trans and/or Two-Spirit people must be supported to take the lead on this essential work. Moreover, an intersectional lens that accounts for the different experiences of trans people with different identities and circumstances must also be employed at all stages of further development and implementation of the recommendations.

Since the beginning of the epidemic, human rights have always been the underpinning to an effective response. This not only includes the right to access health care services free of stigma and without discrimination but also the forefronting of confidentiality, bodily integrity, privacy and autonomy. In this reporting year, we engaged in a number of initiatives at the intersection of health and human rights.

Based on our advocacy, the Ontario College of Massage Therapists rescinded a policy that required its members to collect information from clients about their HIV positive status. In addition, in partnership with lawyers and others, we organized to respond to the decision of the Ontario government to end healthcare coverage extended in March 2020 to people without insurance. This coverage primarily impacts those with no or precarious immigration status, and we will continue to work with others to challenge the cuts.

We were also very much involved in the response to Mpox. In addition to participating in regular community meetings, we assisted in drafting calls to the government for emergency support and services in response to Mpox infections. We amplified the unique concerns of people living with HIV to ensure that vaccine distribution was equitable and privacy and confidentiality were honored.

Public Legal Education

To ensure a human rights-based approach to HIV self-testing, we worked with key players in the rollout to ensure that people are able to maintain privacy, independence and control throughout the testing process. To this end, among other things, we played a lead role in drafting a consensus statement on a human rights approach to self-testing as well as providing input into materials provided to people who use self-tests.

Research also continued into what happens to people's health information and blood when they are tested for HIV or engage in viral load testing. It is essential that the pathway – how and where people's bodily substances and health information is collected, stored, used and shared – is made clear, especially as people living with HIV are unduly surveilled and criminalized. The research is well underway and we are excited to share the results to assist people to understand what happens to their blood and health information, and to work with them to ensure that their human rights and privacy rights are always upheld.

HALCO staff provide information in print, online and in-person to help people understand legal issues, advocate for themselves and seek broader social change. For this reporting period, we conducted 43 video and in-person workshops across the province and worked on various other public legal education projects. Issues surrounding the criminalization of HIV and public health law comprised 37% of our workshops, immigration and refugee law comprised 26%, and income maintenance (primarily issues surrounding the Ontario Disability Support Program) comprised 16%. The remainder related to other legal issues including privacy, income maintenance, and human rights.

HALCO staff spoke throughout Ontario to audiences including people living with HIV, AIDS service organization staff, legal service providers, students, and health care providers. We also widely shared written and electronic information, and our website remained popular (133,593 visits).

Along with the HIV Legal Network and Communities, Alliances & Networks (CAAN, formerly known as the Canadian Aboriginal AIDS Network), we released guides on HIV criminalization for Indigenous communities and presented workshops introducing the new guides. We are currently working with the HIV Legal Network, African Caribbean Council on HIV/AIDS in Ontario, Africans in Partnership Against AIDS, and Black Coalition for AIDS Prevention on the development of materials for Black communities. Please watch for more information about this over the coming months.

2022-2023 Board of Directors and Staff

We also released a new resource on HIV testing and reporting to Public Health in Ontario. The new guide includes information about the differences between nominal and anonymous HIV testing, as well as details about what gets reported to Public Health authorities when people test positive for HIV. In particular, the guide provides updated information about reducing the possibility of a person's name being reported to Public Health authorities after testing positive anonymously and accessing HIV-related medical care.

During this reporting year, we also released a newsletter and ran another series of our in-house public legal education workshops in which over 200 attendees participated in discussions on HIV criminalization, immigration/refugee law, income maintenance, and employment law. We spoke at events run by AIDS service organizations and others. For example, we ran workshops at the Alliance for South Asian AIDS Prevention and spoke with medical students about the importance of privacy and confidentiality. We also participated in a panel at the Canadian Conference for HIV/AIDS Research that focused on legal and ethical issues surrounding molecular surveillance.

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- Eric Peters, *Chair*
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- Robin Nobleman, *Staff Lawyer (on leave)*
- Omar Tobah, *Staff Lawyer*
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- Debbie Rachlis, *Staff Lawyer*
- Avi Cheema, *Staff Lawyer*

Donors and Funders

The generosity of donors and funders enables us to provide legal services to the HIV community. We sincerely thank all of the individuals who provided donations as well as the following funders:

Core Funders:

- Legal Aid Ontario
- Ontario Ministry of Health and Long-Term Care

Funding Partners:

- ViiV Health Care

Thanks

Thanks also to the following people who generously provided their time:

Mark Blans
 David Brennan
 Daniel Brown
 Matt Cohen
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Report of the Independent Auditor on the 2023 Summarized Financial Statements

To the Members of HIV & AIDS Legal Clinic (Ontario)

The accompanying summarized financial statements, which comprise the summary statement of financial position as at March 31, 2023, and the summary statement of operations and changes in fund balances for the year then ended, and the related notes, are derived from the audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the same period. We expressed a modified audit opinion on those financial statements in our report dated June 27, 2023. Those financial statements, and the summarized financial statements, do not reflect the effects of events that occurred subsequent to the date of our report on those financial statements.

The summarized financial statements do not contain all the disclosures required by Canadian accounting standards for not-for-profit organizations. Reading the summarized financial statements, therefore, is not a substitute for reading the complete audited financial statements of HIV & AIDS Legal Clinic (Ontario).

Management's Responsibility for the Summarized Financial Statements

Management is responsible for the preparation of a summary of the audited financial statements in accordance with the basis described in Note 1 to the summarized financial statements.

Auditor's Responsibility

Our responsibility is to express an opinion on the summarized financial statements based on our procedures, which were conducted in accordance with Canadian Auditing Standard (CAS) 810, "Engagements to Report on Summary Financial Statements".

Opinion

In our opinion, the summarized financial statements derived from the complete audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the year ended March 31, 2023 are a fair summary of those financial statements, in accordance with the basis described in Note 1 to the summarized financial statements. However, the summarized financial statements are misstated to the equivalent extent as the audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the year ended March 31, 2023.

The misstatement of the audited financial statements is described in our qualified opinion in our report dated May 15, 2023. Our qualified audit opinion is based on the fact that, in accordance with Section 3065 of the Canadian accounting standards for not-for-profit organizations, in instances where a tenant lease provides for periodic step-rate increases in rent over the lease term, the total amount of rent to be paid under such lease is to be accounted for on a straight-line basis over the term of the lease. In addition, where a tenant lease provides an inducement to the lessee, the total value of the inducement is also to be accounted for on a straight-line basis over the term of the lease. The organization's financial statements do not reflect these adjustments for periodic step-rate increases in rent or tenant inducements. This departure from Canadian accounting standards for not-for-profit organizations results in an understatement of expenses by \$3,314 and liabilities by \$44,250, and accordingly, an overstatement of revenues over expenses and fund balances, end of year, by \$40,936. Our qualified audit opinion states that, except for the effects of the described matter, those financial statements present fairly, in all material respects, the financial position of HIV & AIDS Legal Clinic (Ontario) as at March 31, 2023 and the results of its operations and cash flows for the year then ended in accordance with Canadian accounting standards for not-for-profit organizations.

Truster Zweig Raithatha LLP

Chartered Professional Accountants
Licensed Public Accountants

Richmond Hill, Ontario
November 21, 2023

Note to the summarized financial statements (March 31, 2023)

Basis of preparation

These summarized financial statements are derived from the complete annual audited financial statements of HIV & AIDS Legal Clinic (Ontario) for the year ended March 31, 2023, which were prepared in accordance with Canadian accounting standards for not-for-profit organizations.

A copy of the complete audited financial statements is kept on file at HIV & AIDS Legal Clinic (Ontario) and can be provided upon request.

The set of criteria applied by management in preparing these financial statements is outlined in the paragraph below.

The figures presented in these summarized financial statements agree with or can be recalculated from the figures presented in the complete audited financial statements. Management believes that the summarized financial statements contain the necessary information and are at an appropriate level of aggregation so as not to be misleading to the users.

Summarized Audited Financial Statement

for period April 01, 2022 to March 31, 2023

HIV & AIDS LEGAL CLINIC (ONTARIO) Statement of Financial Position March 31, 2023

	LAO Operating Fund (Unrestricted)	MOH AIDS Bureau Fund (Externally Restricted)	LAO Legal Disbursements Fund (Externally Restricted)	Donations Fund (Internally Restricted)	Project Funding Fund (Externally Restricted)	2023 Total	2022 Total
ASSETS							
CURRENT							
Cash	\$ 9,499	\$ 1,547	\$ 4,269	\$ 70,227	\$ 47,606	\$ 133,148	\$ 200,595
Short-term investments	-	-	-	81,585	-	81,585	54,810
Amounts receivable	900	-	-	-	-	900	-
Government remittances	14,879	-	22	-	-	14,901	14,601
Prepaid expenses	29,698	-	-	-	-	29,698	17,817
Interfund receivable	-	4,073	-	31,682	4,462	40,217	26,104
	54,976	5,620	4,291	183,494	52,068	300,449	313,927
EQUIPMENT	-	-	-	-	-	-	2,901
	\$ 54,976	\$ 5,620	\$ 4,291	\$ 183,494	\$ 52,068	\$ 300,449	\$ 316,828
LIABILITIES AND FUND BALANCES							
CURRENT							
Accounts payable and accrued liabilities	\$ 28,644	\$ 8,643	\$ -	\$ -	\$ 1,279	\$ 38,566	\$ 38,887
Deferred revenue	-	-	-	-	45,476	45,476	60,764
Interfund payable	40,019	-	198	-	-	40,217	26,104
	68,663	8,643	198	-	46,755	124,259	125,755
FUND BALANCES (DEFICIT)	(13,687)	(3,023)	4,093	183,494	5,313	176,190	191,073
	\$ 54,976	\$ 5,620	\$ 4,291	\$ 183,494	\$ 52,068	\$ 300,449	\$ 316,828

Summarized Audited Financial Statement

for period April 01, 2022 to March 31, 2023

HIV & AIDS LEGAL CLINIC (ONTARIO) Statement of Operations Year Ended March 31, 2023

	LAO Operating Fund (Unrestricted)	MOH AIDS Bureau Fund (Externally Restricted)	LAO Legal Disbursements Fund (Externally Restricted)	Donations Fund (Internally Restricted)	Project Funding Fund (Externally Restricted)	2023 Total	2022 Total
REVENUE							
Legal Aid Ontario - Direct receipts	\$ 917,689	\$ -	\$ 5,000	\$ -	\$ -	\$ 922,689	\$ 913,962
Legal Aid Ontario - Indirect receipts	74,403	-	-	-	-	74,403	46,775
AIDS Bureau	-	339,072	-	-	-	339,072	339,072
Project funding	8,264	-	-	-	42,649	50,913	-
Donations	-	-	-	2,309	400	2,709	4,667
Interest	73	9	2	2,027	27	2,138	685
Other income	11,402	-	-	-	-	11,402	12,021
	1,011,831	339,081	5,002	4,336	43,076	1,403,326	1,317,182
EXPENSES							
Amortization	2,901	-	-	-	-	2,901	1,244
Communications	9,099	-	-	-	-	9,099	14,649
Equipment and maintenance	6,155	-	-	-	-	6,155	6,614
Fundraising development	-	-	-	6,476	-	6,476	665
Indirect payments	74,403	-	-	-	-	74,403	46,775
Legal disbursements Library	-	-	6,982	-	-	6,982	3,306
Occupancy	747	-	-	-	-	747	571
Professional dues	176,024	-	-	-	-	176,024	174,220
Salaries and benefits	20,602	-	-	-	-	20,602	21,650
Supplies and services Travel	656,522	336,580	-	18,183	43,928	1,055,213	994,274
	48,054	2,501	-	-	400	50,955	51,101
	8,652	-	-	-	-	8,652	2,132
	1,003,159	339,081	6,982	24,659	44,328	1,418,209	1,317,201
EXCESS (DEFICIENCY) OF REVENUE OVER EXPENSES	\$ 8,672	\$ -	\$ (1,980)	\$ (20,323)	\$ (1,252)	\$ (14,883)	\$ (19)

Summarized Audited Financial Statement

for period April 01, 2022 to March 31, 2023

HIV & AIDS LEGAL CLINIC (ONTARIO) Statement of Changes in Fund Balances Year Ended March 31, 2023

	LAO Operating Fund (Unrestricted)	MOH AIDS Bureau Fund (Externally Restricted)	LAO Legal Disbursements Fund (Externally Restricted)	Donations Fund (Internally Restricted)	Project Funding Fund (Externally Restricted)	2023 Total	2022 Total
FUND BALANCES (DEFICIT) - BEGINNING OF YEAR	\$ (22,359)	\$ (3,023)	\$ 6,073	\$ 203,817	\$ 6,565	\$ 191,073	\$ 202,782
Repayment of prior year surplus	-	-	-	-	-	-	(11,690)
Excess (deficiency) of revenue over expenses	8,672	-	(1,980)	(20,323)	(1,252)	(14,883)	(19)
FUND BALANCES (DEFICIT) - END OF YEAR	\$ (13,687)	\$ (3,023)	\$ 4,093	\$ 183,494	\$ 5,313	\$ 176,190	\$ 191,073

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 **2023 HIV & AIDS Legal Clinic Ontario**