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HIV & AIDS Legal Clinic Ontario

Planning for illness: legal information for people living with HIV in Ontario



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This guide was produced by African and Caribbean Council on HIV/AIDS in Ontario (ACCHO) and the HIV & AIDS Legal Clinic Ontario (HALCO). For more information about ACCHO and HALCO please see page 56. The guide can be found on the ACCHO website (www.accho.ca) and the HALCO website (www.halco.org).

The inspiration for this guide came from the Black Provincial PHA Advisory Body (PAB), which is made up of African, Caribbean and Black people living with HIV/AIDS (PHAs) from across Ontario.

This guide provides general legal information about planning for illness and death for people in Ontario. While we recognize that HIV is a manageable chronic illness and that people living with HIV live long productive lives, the possibility of illness or death is a reality. In fact, it is a reality for everyone, not just people living with HIV. Planning ahead helps us to be prepared.

Legal information can help you understand the law and legal options, but it is general. Legal advice is specifically about your situation and can help you to decide what to do. The difference between legal information and legal advice is important. HALCO provides free legal advice to people living with HIV in Ontario. See page 52 for HALCO contact information and information about other legal services in Ontario.

This guide was completed in January 2012. However, the law can change at any time so you should get up-to-date legal advice about your situation (see page 52).

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This publication does not include information about immigration law issues. If you are living with HIV and have any concerns related to immigration and the law, please contact the HIV & AIDS Legal Clinic Ontario (see page 52). If you are not living with HIV, please contact your local community legal clinic (see page 52).

1. Introduction: Making plans for illness or death is not easy

Illness and death are uncomfortable topics, which people often avoid. However, we need to talk about illness and death, so that we can make plans for ourselves and our loved ones. Planning ahead can help to prevent potential financial and/or legal burdens if we become very ill or die.

Coming to terms with our own mortality is not easy. We may need guidance and support from others. However, this is the first step towards being in the mental/psychological space to start making plans.

We want to ensure that our wishes are respected. In the case of illness, our wishes may relate to how we are cared for and by whom, who looks after our children, who manages things for us, etc. In the case of death, our wishes may relate to how we are laid to rest (funeral, burial, cremation), who looks after our children, how our loved ones and pets are provided for, and who looks after our estate for us.

We also want our loved ones to get the help they need to cope. HIV has an impact on our loved ones too, and can have emotional, spiritual, physical and psychological effects. Page 49 has information about services that may help us cope with the effects that illness or death can have.

This booklet contains general information to help you make plans for yourself. The law is complicated and each person's situation is different so it is important to get legal advice about your specific situation. See page 52 for more information about getting legal advice.



2. Who will make decisions for me if I am no longer able to make decisions for myself? (Powers of Attorney)

A Power of Attorney is a legal document in which you appoint someone to make decisions for you. Usually, you appoint someone under a Power of Attorney because you want them to make decisions for you in case you are unable to make your own decisions because you are not mentally capable. The legal definition of what it means to be mentally capable is complicated. The definition of mental capacity is different depending on the decision, the purpose and the circumstances.

You have to be “mentally capable” in order to make a Power of Attorney. You never know when you might not have the mental capacity to prepare Powers of Attorney, so it is a good idea to make your Powers of Attorney now.

It is important to understand that a Power of Attorney ends when you die. That is why you need a will as well as Powers of Attorney. A will expresses your wishes for after you die and has no legal effect before you die. A Power of Attorney only has effect before you die. People often make a will and Powers of Attorney at the same time.

The person you appoint in a Power of Attorney does not have to be a lawyer. Under the law, the person you appoint is referred to as the “attorney” but is more commonly known as a “Substitute Decision-Maker” (SDM). The person or people you appoint must be mentally capable. You can appoint more than one person in your Power of Attorney, and you can say if they can make decisions separately or if



you want them to make decisions together. You should appoint someone you trust to make decisions in your best interest and according to your wishes, for example a close family member or friend. It is a good idea to talk to your Substitute Decision-Maker to make sure that they are willing to take on the responsibility. You should also talk to your Substitute Decision-Maker about the kinds of decisions you would want them to make for you.

TYPES OF POWER OF ATTORNEY

There are two types of Powers of Attorney in Ontario: Powers of Attorney for Personal Care and Powers of Attorney for Property.

POWER OF ATTORNEY FOR PERSONAL CARE

In your **Power of Attorney for Personal Care**, you appoint someone to make personal care decisions for you, including decisions about your:

- health care and medical

treatment;

- diet, housing, and clothing;
- hygiene; and
- safety.

Your **Power of Attorney for Personal Care** only takes effect when you are not capable of making a particular decision. You might be capable of making some decisions but not others. Your capacity to make decisions for yourself can change over time.

The person (or people) that you appoint must be at least 16 years of age and mentally capable. You should talk to the person you appoint as your Substitute Decision-Maker to let them know what decisions you might want them to make for you. You should talk with your Substitute Decision-Maker about how you wish to be cared for in the future if you become incapable. Communicating with your Substitute Decision-Maker about what personal care you do or do not want to receive in the future is known as Advance Care Planning.

What is the difference between Advance Care Planning and a Power of Attorney for Personal Care?

Advance care planning is about making choices now, while you are mentally capable, about how you wish to be cared for in the future if you become incapable. Your wishes about future care should be shared with your Substitute Decision-Maker, who is appointed when you prepare a **Power of Attorney for Personal Care**. It is important to communicate with your Substitute Decision-Maker about your values and beliefs, to help make sure that they can make the decisions you would want. The wishes that you express while you are capable are legally binding. This means that your Substitute Decision-Maker must consider your wishes when making decisions on your behalf.

You may change your wishes about personal care, so it is important to review your wishes on a regular basis with your Substitute Decision-Maker. Your wishes do not have to be in writing. You may communicate your wishes any way you like, including orally, in writing

or with a recording device. Written care wishes may actually limit the decisions that your Substitute Decision-Maker can make. Limiting your Substitute Decision-Maker can be a problem because you cannot plan for every situation and your wishes may change over time. You may therefore choose not to put your wishes in writing so your Substitute Decision-Maker is not limited. You should talk with your Substitute Decision-Maker as well as a lawyer about whether it is helpful to put your care wishes in writing.

People often talk about a “Living Will” or an “Advance Care Directive”. A living will or advance care directive is used to document your care wishes for your Substitute Decision-Maker. A living will or advance care directive does not provide legal authority for someone to act as your Substitute Decision-Maker, unless the document also meets the legal requirements as a **Power of Attorney for Personal Care** or is attached to a **Power of Attorney for Personal Care** (see page 4 above).

CONTINUING POWER OF ATTORNEY FOR PROPERTY

In your **Continuing Power of Attorney for Property**, you appoint someone to make financial decisions for you. The person must be at least 18 years of age and mentally capable. The person that you appoint can do anything with your property that you could do, except the person cannot make a will for you or make a new Power of Attorney for you. Only you can make a will or Power of Attorney for yourself. Decisions that the person might make in your name include:

- banking,
- signing cheques,
- buying or selling real estate,
- buying or selling personal property, and
- taking out loans.

It is very important that you be sure that you can trust the person that you appoint in a Power of Attorney for Property as that person will have a lot of power.

The person you appoint to make decisions for you under a

Continuing Power of Attorney for Property can take a fee for doing this. If you do not want the person to be allowed to take a fee, you must put a condition in the Power of Attorney document.

When does my Continuing Power of Attorney for Property take effect?

Unless you put a condition or limit in your **Continuing Power of Attorney for Property**, it will take effect as soon as you sign it so the person that you appoint can start acting on your behalf right away. If you only want the **Continuing Power of Attorney for Property** to take effect if you are not capable of making your own decisions, then you must put that condition or limit in your **Continuing Power of Attorney for Property**.

What about my child?

Your **Continuing Power of Attorney for Property** cannot authorize someone to care for your child because a child is not “property”. Your **Continuing**

Power of Attorney for Property can include financial arrangements for your child, for example, you could authorize using your income or assets for your child. See **Who will take care of my children?** on page 10 for more information.

What about my pets?

Since pets **are** considered to be “property”, you can include instructions about your pet(s) in your **Continuing Power of Attorney for Property**.

WHAT ELSE DO I NEED TO KNOW ABOUT POWERS OF ATTORNEY?

Can I change or cancel my Powers of Attorney?

If you have the mental capacity to make a Power of Attorney, you can change or revoke (cancel) your Power of Attorney. If you change or revoke your Power of Attorney, you should inform your attorney. You should also inform any person, organization or institution that knows about your Power of Attorney.

When do my Powers of Attorney end?

As noted above, if you have the mental capacity to prepare a Power of Attorney, you can change or revoke (cancel) a Power of Attorney. A Power of Attorney will usually end if you make a new Power of Attorney, because the new Power of Attorney replaces the existing Power of Attorney. A Power of Attorney can end if a Court makes a decision to appoint another Substitute Decision-Maker. Powers of Attorney end when you die.

WHAT IF I HAVE NOT PREPARED POWERS OF ATTORNEY?

If you are no longer able to make decisions for yourself, but you have not prepared Powers of Attorney, then the law sets out who will make decisions for you.

What if I do not have a Power of Attorney for Personal Care?

If you become mentally incapable to make personal care decisions

for yourself, but you have not prepared a **Power of Attorney for Personal Care**, then the law sets out who your Substitute Decision-Maker (SDM) for personal care decisions will be, in this order:

- a. your “representative” or “guardian” who has been appointed by the court or the Consent and Capacity Board,
- b. your spouse or partner,
- c. your parent(s) or your child(ren) who are at least 16 years old,
- d. your brother(s) or sister(s),
- e. any other relative, or
- f. the Government of Ontario Office of the Public Guardian and Trustee.

The person that the law would consider to be your Substitute Decision-Maker may not be the person that you would want to make decisions for you, so it is recommended that you appoint a **Power of Attorney for Personal Care** (see page 4 above).

What if I do not have a Continuing Power of Attorney for Property?

If you have not prepared a **Continuing Power of Attorney for Property**, and others believe that you are not mentally capable to make your financial decisions, someone would have to take action to get control to make financial decisions for you. They could

- a. apply to the court to become your Guardian of Property, or
- b. arrange for you to have a capacity assessment by a special capacity assessor. If you are found incapable, then the Public Guardian and Trustee (PGT) would manage your finances. Your family could apply to replace the Public Guardian and Trustee and take over management of your money.

There are other steps that your family and friends could take to take over management of your finances, but each way takes some time. Having a **Continuing**

Power of Attorney for Property makes it easier for your Substitute Decision-Maker to manage your property for you when you are not able to do so yourself.

HOW DO I PREPARE POWERS OF ATTORNEY?

It is strongly recommended that you prepare both types of Powers of Attorney so that you can choose who will make decisions for you. You should get legal advice before preparing Powers of Attorney. People often make Powers of Attorney at the same time that they make a will. If a lawyer is making your will, you can ask about making Powers of Attorney too. For more information about wills, see page 13. See page 52 for more information about getting legal advice.

Community Legal Education Ontario (CLEO) has booklets about *Powers of Attorney for Personal Care* and *Continuing Powers of Attorney for Property* available on the CLEO website and in print: www.cleo.on.ca/english/pub/onpub/subject/health.htm

The Ontario Government website includes a *Guide to Advance Care Planning*: www.seniors.gov.on.ca/en/advancedcare/index.php

Here is a link to information about Powers of Attorney on the Ontario Government website: www.attorneygeneral.jus.gov.on.ca/english/justice-ont/estate_planning.asp#wills

You should get legal advice before making Powers of Attorney. You can get Power of Attorney forms from the Ontario Ministry of the Attorney General website: www.attorneygeneral.jus.gov.on.ca/english/family/pgt/poa.pdf

3. Who will take care of my children?

If you become very ill, you may not be able to care for your minor child or children. A “minor child” is a child who is under the age of 18 years.

Usually, the law gives “custody” of a minor child to the biological/birth or adoptive parents. Custody is the right to make the important decisions about the care and upbringing of a child. Custody does not only mean having the day-to-day care of a child. Custody also involves making major decisions about the child’s residence, education, health, choice of religion and general welfare.

If you are separated from your child’s other parent, you may agree that the other parent can take over your role as your child’s primary caregiver. If you are too ill to physically care for your child, you can still share custody of your child if you are able to make decisions about your child.



If you and your child’s other parent cannot agree, then either you or the other parent can apply to the court for custody. The court usually gives custody to a parent. However, anyone can apply to the court for custody of a child, for example a grandparent or close friend. If you do not believe that your child’s other parent should have custody of your child, you and/or others could oppose the other parent’s custody application.

You could support the custody application of another family member or close friend. The court has to decide what custody arrangement would be in the best interests of your child.

The Ontario Office of the Children’s Lawyer may represent children under the age of 18 with respect to their personal and property rights, including child custody and access disputes, child protection proceedings, estate matters and civil litigation.

For more information about children’s rights:

The Ontario Office of the Children’s Lawyer telephone: 416-314-8000 or toll-free: 1-800-518-7901 (ask for the Office of the Children’s lawyer). www.attorneygeneral.jus.gov.on.ca/english/family/ocl/ Justice for Children and Youth is a community legal clinic that specializes in legal issues for children and youth: telephone 416-920-1633 or toll free: 1-866-999-5329. www.jfcy.org

If you have a family member in another country who might help you and/or your children while you are ill, it may be possible to ask your family member to come to Canada. If you want to try to bring someone to Canada, you should get legal advice as soon as possible (see page 52).

If someone else is caring for your child(ren) under the age of 18, that person may be eligible for Ontario Works Temporary Care Assistance benefits for your children. They may also apply to receive any **Child Benefits** for your child(ren). Usually only one person can receive benefits for a child. So if someone else is receiving benefits for your child, you will not receive your child’s benefits (see page 41 for more information about **Child Benefits**).

You should have a “will”, especially if you have a “minor” child or children (under the age of 18 years). In your will, you can appoint a person to have custody of your child and to have guardianship of the

child's property when you die. The person you appoint has 90 days from the date of your death to bring an application to court for custody and guardianship of the child's property. The other parent, another family member or someone else may oppose the application. The court will make a decision based on the best interests of the child. See page 13 for more information about wills.

You can talk to a lawyer about making plans for your children. See page 52 for more information about how to get legal advice.

What if there is no one to take care of my child?

The Children's Aid Society (CAS) has a legal duty to make sure that children under the age of 16 are protected. If you become very ill or die and there is no appropriate adult who is willing to care for your children under the age of 16 years, then CAS will become involved. CAS will take your children into care, which may be temporary or in some cases permanent. The Ontario Association of Children's Aid Societies website has more information about CAS: www.oacas.org/

4. Do I need a will?

A will expresses your wishes for *after* you die and has no legal effect *before* you die. A Power of Attorney only has effect before you die. People often make a will and Powers of Attorney at the same time.

Why do I need a will?

It is important to have a “will”. Even if you do not have children or a lot of savings or property, your will has more than one purpose. Your will sets out your wishes, including:

- appointing your “Executor” (the person who will carry out your wishes) and any alternate Executor(s) if the original Executor cannot or will not act;
- how you are laid to rest (funeral, burial, cremation);
- who you name to look after your children (see **Who will take care of my children?** on page 10);
- arrangements or gifts for your children (for example, that your children receive half of their inheritance at one age and the other half at another age);
- arrangements for your pet(s); and
- what happens to your “estate” (money, belongings, other personal assets, property, real estate, etc.).



Generally, a “probate” application must be made to the court in order for your “estate” to

be distributed according to your will. If your estate is not very large, then it may be possible to distribute your assets according to your will but without having to apply to court. For example, if you have money in a bank account that is not jointly held, the bank will likely allow your Executor to deal with the money without having to probate your will.

You can only make a will when you are “mentally capable” under the law. Your will may be challenged if you make your will when you are not mentally capable. The legal definition of what it means to be mentally capable is complicated.

You never know what the future may bring, so it is a good idea to prepare your will now. Your will is a very important document and the law is complicated, so you should get legal advice about your will (see page 52).

What if I die but I do not have a will?

If you die but you do not have a will, you are said to have died “intestate”. If you have not made a will, the law generally requires that someone apply to the court to be appointed to distribute your estate. The person will need to hire a lawyer to make the court application. If you die without a will, the *Succession Law Reform Act* sets out how your property will be divided. This may not be the way you would have chosen to divide your property.

Even if there is no will, some property and/or assets may be distributed without a court application. Examples include money that is in a joint bank account and property that is jointly owned. If you are dealing with the estate of someone who died without a will, you should get legal advice about how the estate can be administered and whether it is necessary to apply to court.

It is strongly recommended that you get legal advice and that you make a will.

What if my partner and I are not legally married?

If you do not have a will and you are not legally married to your spouse or partner, your spouse or partner may have no rights to your estate. If you and your spouse/partner have joint assets, then your spouse/partner may have rights but only to those joint assets. If you want to provide for your common-law spouse or partner, you must set it out in your will.

How do I prepare a will?

You should have your will prepared by a lawyer. It may not cost a lot of money and may even be free (see resources, page 52 below). A lawyer will know the law and may also make suggestions or raise issues that have not occurred to you. A will drawn up by a lawyer is much more likely to stand up to any legal challenge. The lawyer will usually keep a copy of your will in their safe or you may choose to have the lawyer keep your original will for you.

Can I make my will myself?

In an emergency, you can hand-write your will yourself. This is called a “holographic will”. A holographic will must be entirely in your own handwriting and must include your signature. Although a holographic will does not have to be witnessed to be legally valid, you may want to have witnesses in case someone challenges your will after you die (see paragraph below for more information about witnesses). If you prepare a holographic will, make sure that it states:

- your full name;
- that it is your “last will and testament”;
- the date you are making the will;
- who you appoint as Executor(s) to administer your estate; and,
- what your wishes are.

If your will is typed, even partly, it is not a holographic will. If your will is typed or if you use a will form or kit, you must have two witnesses. You and the witnesses must be together when you sign

your will. You and your witnesses must each sign the last page and you must also each initial every page of your will. You should number the pages of your will, for example: “page 1 of 3, page 2 of 3”, etc. One of the witnesses will have to swear a witness affidavit as well. Your witnesses cannot be “beneficiaries”, which means that your witnesses cannot be people who could benefit from your will.

It is strongly recommended that you get legal advice before you prepare your will, including advice about who should be a witness to your will (see, **How do I prepare a will?** above).

Do I need to talk to the person that I am naming as my Executor?

You should talk to the person or people that you want to name as your Executor(s) in your will to make sure that they are willing to take on the responsibility. Your Executor(s) has important responsibilities and it can be time-consuming to carry out the many duties of an Executor.

What about copies of my will?

You do not have to give a copy of your will to anyone. However, your Executor should either have a copy of your will or know where your will is kept. You should only have one signed original will. If you make copies of your will, you should get the copies certified by a lawyer or notary public. You can decide to give a copy of your will to anyone else if you wish.

I have a will already. Do I need to make a new will?

Remember to review your will regularly because your wishes or your situation may change. There can be many reasons to prepare a new will. For example, it is important to prepare a new will:

- when your wishes change;
- if you get married or have children after you make your will;
- if you get separated or divorced; or
- if your Executor is no longer willing or available.

It is important to get legal advice about making your will (see page 52 for more information about getting legal advice).

Here are links to information on the Ontario Government website:

Wills, Estates and Trusts:
www.attorneygeneral.jus.gov.on.ca/english/justice-ont/estate_planning.asp#wills

What to do when someone dies in Ontario:
www.ontario.ca/en/life_events/death/004448.html

Here is a link to information from the Government of Canada about *What to Do Following a Death*:
www.servicecanada.gc.ca/eng/lifeevents/loss.shtml

5. What about my home?

You may live in a rental unit, a government subsidized unit, a housing co-operative, or you may own your home. The rules and laws are different and depend on the type of housing that you live in, if anyone lives with you and their relationship to you. Human Rights laws may also apply. This section highlights some of the key housing issues that you may face if you become ill or die. The law is complicated, so you should get legal advice about your situation. See page 52 for information about getting legal advice.



RENTAL HOUSING

Most rental housing in Ontario is covered by a law called the *Residential Tenancies Act* (RTA). However, some rental housing is not covered by the RTA. For example, if you share the kitchen or bathroom with your landlord, your unit is not covered by the RTA. The information in this section is about rental units covered by the RTA. If your rental unit is not covered by the RTA or you are not sure if it is covered, you should get legal advice (see page 52).

The RTA sets out the rights and responsibilities of “tenants” and “landlords”. The Landlord and Tenant Board (LTB) makes decisions about disputes between landlords and tenants who are covered by the RTA. These disputes may be about things like rent payments, repairs and eviction. If you have a problem with your landlord, you should get legal advice right away (see page 52).

The RTA distinguishes between people who are “tenants” and other people who occupy rental units. This section focuses on “tenants”. If you are unsure whether you are a tenant or not, you should get legal advice from your local legal clinic (see page 52).

Generally, you should be able to keep your rental unit as long as you are a “tenant”, the rent is paid on time every month and you follow all the other legal requirements. If you receive any legal notices from your landlord, you should get legal advice right away. If you are hospitalized or have to live somewhere else to get the care that you need, you should either forward your mail or have someone checking your mail in case you receive any important notices.

If you are hospitalized or you have to live somewhere else to get the care that you need, and you do not think that you will be able to go home to your rental unit again, you may want to end your tenancy. In order to end your tenancy, you must provide your landlord with notice that

you are ending your tenancy. The amount of notice you have to give depends on your situation, so you should get legal advice about your options. If you live with other people, you should get legal advice, because even if you are no longer living there, you could still be held responsible for the rent and for what happens in the unit.

If you die, the RTA says that your tenancy ends 30 days after your death, unless you have a “spouse” or a co-tenant living with you. Your “spouse” or co-tenant would then become the tenant and the tenancy would continue, unless your spouse moves out within the 30 days. “Spouses” include married couples and couples who have lived together for at least one year or have a child together. If you do not have a spouse living with you, your children may have no rights to continue as tenants after the 30 days, unless they are already tenants on the lease, or, they are 16 years or older and the landlord allows them to stay. If you live with

someone else, that person may or may not be able to continue to live in the unit. Anyone who is a tenant would continue to be a tenant after you die. Someone who is not a tenant may or may not be able to continue to live in your unit, and should get legal advice as soon as possible.

The issue of what will happen to the rental unit after a tenant dies is complicated, so you should contact your local legal clinic for legal advice (see page 52).

For general information about the RTA and the LTB:

Community Legal Education Ontario (CLEO) has pamphlets about tenancy in Ontario that are available on the CLEO website and in print: www.cleo.on.ca/english/pub/onpub/subject/landlord.htm

The Advocacy Centre for Tenants Ontario (ACTO) website has general information for tenants: www.acto.ca/

Landlord and Tenant Board: telephone 416-645-8080 or toll-free 1-888-332-3234 www.ltb.gov.on.ca/

SUBSIDIZED/RENT-GEARED-TO-INCOME HOUSING

Subsidized housing, also called Rent-Geared-to-Income (RGI) housing, is housing where the government pays part of your rent, called a rent subsidy. The *Residential Tenancies Act* (RTA) is the law that applies to most rental housing in Ontario, including most subsidized/RGI housing. Most of the RTA applies to subsidized housing units too, but there are also some additional special laws and rules. Some of the special laws and rules relate to the amount of the rent, who lives in the unit, income and assets of the people living in the unit, and absence from the unit. *The Housing Services Act*, a new law about subsidized housing, came into effect in January 2012. For current information, contact your local legal clinic (see page 52).

If you live alone and are too ill to stay in your subsidized unit, you can keep your unit as long as the rent is paid on time every month

and you follow all the other requirements of the laws and rules. Some housing providers have rules about the maximum amount of time that you can be absent from your subsidized unit. If you are away from your unit because you are ill, these absence rules do not apply.

If you live with other people and you are too ill to stay in your subsidized unit, the other people may be able to continue to live in the unit, as long as the rent is paid and other laws/rules are followed. If the other people you live with have to live somewhere else while you are ill, you should be able to keep your unit as long as the rent is paid and the other laws/rules are followed.

If your housing provider has an absence limit, it cannot be less than 60 days and could be more. These limits do not apply if you are away from your unit because you are ill, but you need to let your housing provider know that you are absent because you are ill. If you are away from your unit, you should either forward your mail or have someone

checking your mail in case you receive any important notices.

What happens to my subsidized unit if I die?

If you are a single parent or a parent living with a spouse and you die, the subsidized unit would usually be transferred to your spouse or your child age 16 or older who is living with you. If your spouse and/or your child over 16 have already signed the lease, then they are legal tenants and can continue as tenants. However, the amount of the rent may change and they may have to transfer to a smaller unit.

If your spouse or child age 16 or older was living with you but is not a tenant, your housing provider may allow them to take over the subsidized tenancy, as long as they continue to be eligible for a rent subsidy. However, the amount of the rent may change and they may have to transfer to a smaller unit.

It is very important to report the death of any household member to the subsidized housing

provider right away. The time line for reporting depends on where you live in Ontario and may be as little as 30 days from the date of death. Your spouse or child must report the change within the time limit or they could lose their rent subsidy and face eviction. As the laws and rules are complicated, they should get legal advice as soon as possible after the death. See page 52 about getting legal advice.

What do I have to report to my subsidized housing provider?

If you are living in a subsidized/RGI unit, you must inform your housing provider about changes to your situation or the situation of others in your household, including:

- change of address,
- change of activity (work, school),
- change in income,
- change in assets,
- change in housing,
- change in who lives with you,

- change in family status,
- change in immigration status,
- absence from your unit (see absence information, page 21 above), or
- any other change that might affect your subsidy or housing eligibility.

The time line for reporting depends on where you live in Ontario and may be as little as 30 days from the date of the change.

If you do not report changes in time, you could lose your rent subsidy or your housing provider might take legal action to evict you. If you lie or knowingly fail to report changes to your housing provider, you could be charged with a criminal offence.

If you live in subsidized/RGI housing, you should get legal advice right away if a member of your household is away due to illness or dies. See page 52 for information about getting legal advice.

HOUSING CO-OPERATIVES

This section is for people who live in a not-for-profit housing co-operative (“co-op”). Co-ops are run by members of the co-op and have an elected Board of Directors made up of co-op members. Co-op members pay a monthly housing charge (rent) and some households pay a geared-to-income housing charge. The *Residential Tenancies Act* (RTA) does not apply to housing co-operative members. The rules for co-ops depend on the By-laws of the co-op, as well as on the *Co-operative Corporations Act*. If you live in a co-op, you should get legal advice about your situation (see page 52).

Here is a link to information about Co-operative Housing in Ontario: www.chfcanada.coop/eng/pages2007/coops.asp

HOME OWNERSHIP

You can continue to own your home while you are ill, as long as your mortgage, if you have one, is paid. You should also protect your home by paying any other bills such as heat, hydro, maintenance, insurance, etc. You should either forward your mail or have someone checking your mail in case you receive any important notices. Home ownership can be complicated. You may co-own your home with someone or you may share your home with others or rent part of your home to others who may have rights to your home.

You should get legal advice about what will happen to your home if you become very ill or die.

You can contact the Lawyer Referral Service to get up to 30 minutes of free legal advice: telephone 416-947-3330 or toll-free 1-800-268-8326, TTY: 416-644-4886; www.lsuc.on.ca/faq.aspx?id=2147486372

HOME CARE

If you need help to be able to stay in your home or to return to your home, your local Community Care Access Centre (CCAC) may help you to arrange “Home Care” services. Home care services can include:

- personal support (meal preparation, bathing, dressing, etc.)
- medical supplies and equipment,
- nursing,
- physiotherapy, and
- palliative/end-of-life care.

Many home care services are paid for by the government. You may also pay for additional home care yourself. Your local CCAC is responsible for linking you to government-funded home care services. You can find your local CCAC by calling 310-2222 toll-free from anywhere in Ontario or on the internet at: www.ccac-ont.ca/

For more information about home care:

Home Care Bill of Rights:
www.cleo.on.ca/english/pub/onpub/PDF/health/hc-bor.pdf

Home Care complaints and appeals: www.cleo.on.ca/english/pub/onpub/PDF/health/homecare.pdf

SUPPORTIVE HOUSING, CARE HOMES (RETIREMENT HOMES), LONG-TERM CARE HOMES AND HOSPICES

If you become ill and you think that you will not be able to continue to live in your home or to return to your home after treatment, you will need to think about moving somewhere to get the care you need. There are different options, including supportive housing, care homes/retirement homes, long term care homes and hospices. However, there may be long waiting lists. Long-term care homes and hospices may also provide “short stays” while your caregiver is

away or while you recover (see Long-Term Care Homes on page 26 and Hospices on page 27). Your local Community Care Access Centre (CCAC) may help you to find out about your housing and care options. You can find your local CCAC by calling 310-2222 toll-free from anywhere in Ontario or at www.ccac-ont.ca/

SUPPORTIVE HOUSING

If you are able to live on your own, but you need some care, such as homemaking or personal care, then you may decide to live in “Supportive Housing”. Supportive housing is usually in self-contained rental units within a building, but there are also small group residences. Municipal governments and non-profit groups operate supportive housing services. The types of accommodations, services, costs, and the availability of government subsidies depend on the building or location. The services might include on-site personal care and support, including:

- personal hygiene, dressing

- and bathing,
- housekeeping and laundry,
- daily visits or phone check-ins, and
- shopping, meals, and transportation help.

In supportive housing, you pay the rent for your unit. Some services may be paid for by the government, while you may pay for other services yourself. The care arrangements between you and the supportive housing provider are usually in a written contract or agreement. The *Residential Tenancies Act* (RTA) is the law that applies to most rental housing in Ontario, including most supportive housing units. There is also temporary supportive housing, sometimes called “transitional housing” that has different rules. For legal advice about supportive and transitional housing, see page 52.

CARE HOMES (RETIREMENT HOMES)

If you live in a home where you pay the landlord for your room or

apartment, and for care services, you live in a “Care Home” or “Retirement Home”, sometimes called an “Assisted Living Home”. They are called “Care Homes” in the Ontario *Residential Tenancies Act* (RTA). The RTA gives tenants in care homes the same rights and obligations as other tenants in Ontario, but with a few important exceptions. At the time that this booklet was produced, the new *Retirement Homes Act* was starting to take effect in Ontario. For more information about care homes/retirement homes:

Care Homes: www.cleo.on.ca/english/pub/onpub/PDF/landlordTenant/carehome.pdf

Retirement Homes –Introduction: www.ancelaw.ca/retirement_homes_-_introduction.php

LONG-TERM CARE HOMES

“Long-Term Care Homes” are sometimes called nursing homes or homes for the aged. Long-term care homes are for people who require 24-hour nursing care or supervision.

The *Long-Term Care Homes Act*, 2007 is the law for long-term care homes in Ontario. Applications for admission to long-term care homes are made through your local Community Care Access Centre (CCAC). You have the right to decide what long-term care homes you apply to, and you may apply to up to five homes at a time. You cannot be forced to go to a long-term care home without your consent. If you are not mentally capable, then your Substitute Decision-Maker will make the decision for you about admission into a long-term care home. (For more information about Substitute Decision-Makers, see **Powers of Attorney for Personal Care** on page 4)

The provincial government pays for the cost of providing nursing, personal care and food, as well as programs and support services, in long-term care homes. You pay only for your accommodation. If you want a semi-private or private room, also called preferred accommodation, you will have to pay an extra amount. The government sets the maximum

amounts that you can be asked to pay each month to live in a long-term care home, whether it's a basic room or preferred accommodation. A long-term care home cannot refuse to accept you based on your income or ability to pay. Once you are admitted into a long-term care home, you cannot be asked to leave or be evicted because your income changes. Your local CCAC can help you with long-term care issues. You can find your local CCAC by calling 310-2222 toll-free from anywhere in Ontario or at: www.ccac-ont.ca/

You can find more information about Long-Term Care Homes at:

Long-term Care homes

– *Introduction:* www.ancelaw.ca/long-term_care_homes_-_introduction.php

Every Resident: Bill of Rights for people who live in Ontario long-term care homes: www.cleo.on.ca/english/pub/onpub/PDF/seniors/everyres.pdf

HOSPICES

Hospices provide care services for people who are seriously ill or who may be approaching death. Hospices are usually not-for-profit organizations with staff and/or volunteers who provide free services to individuals and their loved ones. Hospice services may be provided in the hospice or in the community. Depending on the hospice, you may stay in a hospice or you may receive hospice services in your home, a hospital, a long-term care home or another facility. Hospices may assist with medical needs, personal supports, spiritual/faith support, grief and bereavement supports, planning for end of life, etc. Hospices may also provide “short stays” while your caregiver is away or while you recover. You can get more information about hospices from the Hospice Association of Ontario website: www.hospice.on.ca/. Your local Community Care Access Centre (CCAC) may help you to find hospice care in your community. You can find your local CCAC by calling 310-2222 toll-free from anywhere in Ontario or at www.ccac-ont.ca/

6. What happens to my job if I become ill?

There are different laws that may apply to your job or your employment. The laws that may apply to your job depend on things like:

- the type of work you do;
- your employment contract;
- whether you are unionized;
- whether you have any workplace benefits; and
- how long you have worked at the job.



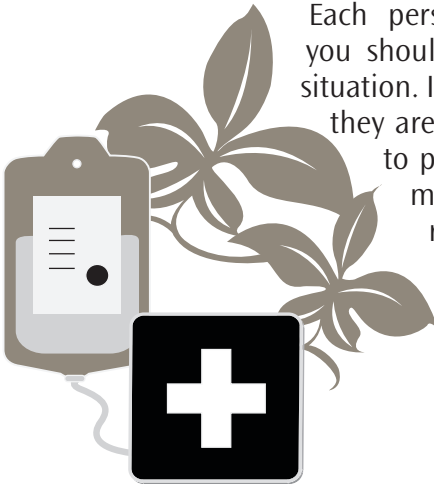
One area of law that applies to employment is Human Rights law. The laws that may apply to your employment are complicated, so you should get legal advice about your situation as soon as possible (see page 52).

Community Legal Education Ontario (CLEO) has publications about your rights at work available on its website and in print: www.cleo.on.ca/english/pub/onpub/subject/work.htm

7. What benefits may be available if I become very ill or if I die?

There are a number of different benefits that may be available for you and your family if you become very ill or die. The benefits available depend on your and your family's situation. There are laws and rules about the different benefits, and Human Rights laws may also apply. This section highlights some of the types of benefits that may be available.

Each person's situation is different so you should get legal advice about your situation. If someone receives benefits that they are not entitled to, they may have to pay back the benefits, and there may be penalties. If someone receives benefits because they lie or knowingly fail to report changes to the benefit provider, they could be charged with a criminal offence. See page 52 for information about getting legal advice.



SOCIAL ASSISTANCE: ONTARIO DISABILITY SUPPORT PROGRAM (ODSP) AND ONTARIO WORKS (OW)

Social assistance provides basic financial assistance for the “benefit unit”, which means the eligible individual, their spouse/partner living with them and any

dependants who are living with them. Dependants may include their children of any age and may include dependent children who are away attending school. Dependent adult children may be required to participate in job-search or education activities in order to be eligible.

There are two types of Social Assistance in Ontario. **Ontario Works (OW)** is often referred to as “welfare” and is for people who have no or very limited income or assets and for the people in their benefit unit. The **Ontario Disability Support Program (ODSP)** is for people with disabilities who have no or limited income, and for the people in their benefit unit. ODSP benefit rates are higher than OW so people receive more money from ODSP than OW. Both ODSP and OW are paid once a month.

OW and ODSP provide money and other benefits, including prescription drug coverage, some dental care, some medical expenses, special diet allowances, employment supports, etc.

If someone else is caring for your children under the age of 18, that person may be eligible for Ontario Works Temporary Care Assistance benefits for your children. They may also apply to receive any Child Benefits for your children (see page 41 for more information about **Child Benefits**). Usually only one person can receive benefits for a child. So if someone else is receiving benefits for your child, you will generally not receive your child’s benefits. If you share custody of your child, then any child benefits might be split.

Here is a link to ODSP and OW social assistance information on the Government of Ontario website: www.mcscs.gov.on.ca/en/mcscs/programs/social/index.aspx

Community Legal Education Ontario (CLEO) has publications about social assistance in Ontario available on the CLEO website and in print: www.cleo.on.ca/english/pub/onpub/subject/social.htm

You can also contact your local community legal clinic for advice about OW and ODSP (see page 52 for more information about community legal clinics).

Am I eligible for ODSP?

To be eligible for ODSP, you and the people in your benefit unit must first be financially eligible for ODSP. Second, you usually have to meet the definition of “disability” in the ODSP law, but some other people are also eligible for ODSP (see link to CLEO *Disability benefits in Ontario* booklet below). If you and your spouse/partner both meet the definition of disability, you will receive more money from ODSP as a “double-disabled” couple. If your adult children are financially eligible and meet the ODSP disability definition, they can each apply to receive their own ODSP benefits. If you are living with HIV, you should contact the HIV & AIDS Legal Clinic Ontario (HALCO) about ODSP eligibility (see page 52). You can also contact your local community legal clinic for advice about ODSP and OW (see page 52).

CLEO’s *Disability benefits in Ontario* booklet gives more information about eligibility for ODSP and is available on the CLEO website and in print: www.cleo.on.ca/english/pub/onpub/PDF/socialAsst/disabben.pdf

Here is a link to general ODSP information on the Government of Ontario website:
www.mcsc.gov.on.ca/en/mcsc/programs/social/odsp/income_support/index.aspx

What happens to my ODSP if I get very sick?

If you become very ill and are not able to stay in your home, your ODSP benefits will continue. But, the amount of your ODSP and how long it continues will depend on your situation, for example:

- if you have dependants in your ODSP benefit unit;
- what kind of facility you are in while you are ill; or,
- whether you will likely be able to return to your home or not.

If you are going to be away, you should either forward your mail or have someone checking your mail in case you receive any important notices. See **What do I have to report to ODSP or OW?** below.

If you become very ill and cannot stay in your home, you should get legal advice as soon as possible (see page 52 for more information about getting legal advice).

What happens to my ODSP if I die?

If you die, your ODSP benefits will usually end at the end of the month of your death. However, if you have a spouse/partner, and/or dependants, your ODSP benefits may continue for up to three months after the month of your death. If your spouse/partner meets the ODSP definition of disability, then your spouse/partner can receive ODSP as a single person or as a person with dependants, but the amount of benefits will change and be based on the people who are now in the

benefit unit. If your adult child is financially eligible and meets the ODSP definition of disability, your child can receive their own ODSP benefits.

If your surviving dependants are not eligible for continued ODSP benefits, they may be eligible for Ontario Works benefits (see page 30).

If a family member dies while receiving ODSP or OW, contact a legal clinic immediately for advice.

What do I have to report to ODSP or OW?

If you are receiving ODSP or OW, you must inform ODSP or OW about changes in your situation and changes for everyone else in your benefit unit. You must report any changes that might affect your eligibility, including:

- change of address,
- change of activity (work, school, volunteering),
- change in income,
- change in assets,
- change in housing,

- change in who lives with you,
- change in family status,
- change in immigration status,
- hospitalization or if you are staying somewhere else,
- absence from Ontario (there are different rules for ODSP and OW, so you should get legal advice right away before you make any plan to leave Ontario), or
- any other change that might affect your ODSP or OW eligibility.

If you have questions about ODSP reporting obligations, contact your local legal clinic (see page 52 for information about getting legal advice).

What if I disagree with an ODSP or OW decision?

You can request an “Internal Review” of any ODSP or OW decision. Internal Review requests should be made within 30 days of the decision. If you do not request your Internal Review within 30 days, you can request an “Extension of Time” to request an Internal Review, but ODSP may

deny your Extension of Time request. If ODSP denies your Extension of Time request, there is no further appeal process. If the Internal Review does not solve the problem, you can appeal most OW and ODSP decisions to the Social Benefits Tribunal. There are strict appeal time limits and you could lose your appeal rights if you do not take action right away. You should get legal advice from a community legal clinic right away if you do not agree with any ODSP or OW decision (see page 52).

Community Legal Education Ontario (CLEO) has booklets about social assistance in Ontario available on the CLEO website and in print, including the *Social Assistance: Appeals and internal reviews* booklet: www.cleo.on.ca/english/pub/onpub/subject/social.htm

CANADA PENSION PLAN (CPP)

The Canada Pension Plan (CPP) is a benefits plan available for many people who have worked in Canada. Workers who pay into the Canada Pension Plan are called CPP contributors. People who are self-employed can register and contribute to CPP. Employers also pay into the Canada Pension Plan on behalf of their employees.

The Canada Pension Plan benefits include:

- Disability Benefits for CPP contributors and their dependent children,
- Retirement and Early Retirement Pension for CPP contributors,
- CPP Death Benefit, a one-time payment to a maximum of \$2,500.00,
- CPP Survivor's Pension for spouse or common-law partner of deceased CPP contributor (this may also be available for a former spouse/common-law partner if there is no existing spouse/partner), and

- CPP Children's Survivors Benefits for dependent children of deceased CPP contributors.

If you are separated and your spouse or partner contributed to CPP, you may be able to apply to share their CPP contributions (see *CLEO CPP Benefits: Are you entitled? Separated, Divorced* booklet link below).

CPP applications should be made as soon as possible. If you do not make your CPP application in time, you may lose your eligibility for the benefits or receive less benefits. CPP only provides money, it does not provide prescription drugs or other benefits. All CPP benefits, except the Death Benefit, are paid once a month. You should get legal advice about applying for CPP. Most decisions about CPP can be appealed. If you do not agree with a CPP decision, you must appeal within 90 days. You should get legal advice about appealing a CPP decision. See page 52 for more information about getting legal advice.

EMPLOYMENT INSURANCE (EI)

You can get more CPP information from the Government of Canada: toll-free telephone 1-800-277-9914, Service Canada TTY toll-free 1-800-255-4786 www.servicecanada.gc.ca/eng/isp/cpp/cpptoc.shtml

Community Legal Education Ontario (CLEO) has several booklets about CPP which are available on the CLEO website and in print:

CPP Benefits: Are you entitled? Disability Benefits:
www.cleo.on.ca/english/pub/onpub/PDF/health/cppdisability.pdf

CPP Benefits: Are you entitled? Survivor Benefits:
www.cleo.on.ca/english/pub/onpub/PDF/family/cppsurvivor.pdf

CPP Benefits: Are you entitled? Separated? Divorced?: www.cleo.on.ca/english/pub/onpub/PDF/family/cppSepDiv.pdf

Employment Insurance (EI) is a government insurance plan for workers, which used to be called Unemployment Insurance (UI). Most workers pay into EI from their income, and employers also pay into EI on behalf of their employees. People who are self-employed can register and contribute to EI. People who have paid into EI may be eligible to collect EI benefits if they stop working.

There are four basic types of EI benefits:

- EI regular benefits for people who have stopped working but are available and looking for work or are in approved training;
- EI sickness benefits for people who have stopped working because of illness or disability;
- EI pregnancy/maternity and parental benefits for people who are having or adopting a child; and

- EI compassionate care benefits for people who are taking time off work to care for a family member or close friend who is seriously ill.

EI only provides money, it does not provide prescription drugs or other benefits. EI has a “Family Supplement” for families with children and low incomes. Usually, you should apply for EI within 4 weeks of stopping work or you might get fewer payments. The rules about EI can be complicated so you should get legal advice.

If you do not agree with an EI decision, you have 30 days to start the first stage of the appeal process. You should get legal advice before you appeal an EI decision (see page 52 about getting legal advice).

You can get more Employment Insurance information from the Government of Canada: toll-free telephone: 1-800-206-7218, TTY toll-free 1-800-529-3742 and on the website: www.hrsdc.gc.ca/eng/employment/ei/index.shtml

Community Legal Education Ontario (CLEO) has two booklets about Employment Insurance available on the CLEO website and in print:

Employment Insurance:
www.cleo.on.ca/english/pub/onpub/PDF/workEmploy/emplns.pdf

Pregnancy and Parental Leaves and Benefits: www.cleo.on.ca/english/pub/onpub/PDF/workEmploy/pregparnt.pdf

WORKPLACE SAFETY AND INSURANCE BOARD (WSIB)

If you are injured at work, you may be eligible for benefits from the Workplace Safety and Insurance Board (WSIB). WSIB is often called “Workers Compensation” and covers many but not all workers in Ontario. WSIB benefits include money, some health care benefits, prescription drug coverage for medications that are related to the work injury,

some counselling and some funeral benefits. There are different types of WSIB benefits for workers, “survivors”, funeral and other costs. The WSIB rules are very complicated so it is very important to get legal advice right away about your WSIB claim.

You can appeal most WSIB decisions. The time limit to appeal WSIB decisions can be as short as 30 days so you should get legal advice right away.

The Office of the Worker Advisor provides free help with WSIB cases to non-unionized workers and has offices in many communities in Ontario: toll-free telephone 1-800-435-8980, www.owa.gov.on.ca/

If you are a member of a union, contact your union for assistance with WSIB.

Some community legal clinics provide free legal help with WSIB problems (see page 52 for more information about

community legal clinics). There are two community legal clinics that specialize in WSIB:

Industrial Accident
Victims Group of Ontario:
telephone 416-924-6477 or
toll-free 1-877-230-6311,
www.iavgo.org/

Injured Workers Consultants:
telephone 416-461-2411,
www.injuredworkersonline.org/

Here is a link to the Workplace Safety and Insurance Board (WSIB) website: www.wsib.on.ca/en/community/WSIB

Community Legal Education Ontario (CLEO) has booklets about WSIB that are available on the CLEO website and in print: www.cleo.on.ca/english/pub/onpub/subject/compensation.htm

EMPLOYER/WORKPLACE BENEFITS, INSURANCE AND PENSIONS

Your employer may have a variety of benefits and insurance

options, which may include:

- health benefits for you and your dependants,
- short-term disability benefits (STD),
- long-term disability benefits (LTD),
- life insurance,
- accidental death and dismemberment insurance, and
- pension plans.

These benefits are based on your employment contract and the employer's contract with the insurance company. So, benefits can be very different depending on the employer. Your employer must give you information about your eligibility for benefits. Some plans are fully paid by the employer, while other plans may be paid by the employer and the employee. You may have options about the types of benefits and insurance that you want.

It is very difficult for people living with HIV to get private life insurance. Your employer's life insurance may be available to you without you having to

provide health information, so it is strongly recommended that you consider this type of life insurance if it is available. If you stop working for that employer, you may have the option of converting your employer's life insurance to your own private insurance without having to provide your health information. You usually have to make the conversion within a few weeks of stopping work so be sure to ask about this option.

The time limits and appeal rights depend on the insurance contract. The Financial Services Commission of Ontario regulates insurance companies in Ontario and there are services to deal with complaints. Here is a link to the Financial Services Commission of Ontario website information about insurance complaints: telephone 416-250-7250 or toll-free 1-800-668-0128, TTY toll-free 1-800-387-0584, www.fscsco.gov.on.ca/english/insurance/resolvecomplaint-insurance.asp

If you do not agree with a decision made by your employer

or your employer's insurance company, you should get legal advice right away (see page 52).

**OLD AGE SECURITY, THE
GUARANTEED INCOME
SUPPLEMENT, THE
ALLOWANCE AND THE
ALLOWANCE FOR THE
SURVIVOR**

The government of Canada may provide several types of financial assistance to people who are 60 years or older and who meet residence requirements. The Old Age Security (OAS) program provides a modest monthly pension, often called the Old Age Pension, for people 65 years and older. The OAS program includes the Guaranteed Income Supplement (GIS). The GIS is a form of social assistance for low income Old Age Pensioners and their spouses or partners age 65 or older. The OAS Allowance and the Allowance for the Survivor may provide monthly benefits for low-income spouses or partners age 60 to 64.

If you think that you may be eligible for OAS, GIS or an Allowance, you should apply as soon as possible. If your application is denied, you can request a reconsideration of the decision within 90 days but you should get legal advice right away (see page 52).

You can get more OAS/GIS information from the Government of Canada: toll-free telephone 1-800-277-9914, TTY toll-free 1-800-255-4786, www.servicecanada.gc.ca/eng/isp/oas/oastoc.shtml

**ONTARIO GUARANTEED
ANNUAL INCOME SYSTEM
FOR SENIOR CITIZENS**

The Government of Ontario provides the Guaranteed Annual Income System (GAINS) supplement to ensure a minimum income level for Ontario senior citizens age 65 years or older. You do not need to apply for GAINS because your eligibility is assessed automatically when you apply for the Guaranteed Income Supplement (see above).

Here is a link to GAINS information on the Government of Ontario website: www.rev.gov.on.ca/en/credit/gains/

ONTARIO DRUG BENEFIT PROGRAMS (ODB)

The Ontario Drug Benefit program (ODB) provides prescription drug coverage for Ontario residents who have a valid Ontario Health Insurance Program (OHIP) card and who are:

- 65 years of age and older (two levels of coverage, depending on income);
- living in a long-term care home or Home for Special Care;
- receiving professional services under the Home Care program;
- receiving social assistance (Ontario Works or Ontario Disability Support Program assistance); or,
- registered for the Trillium Drug Program.

The Trillium Drug Program is for Ontario residents who do not qualify under the other Ontario Drug Benefit programs and who do not have other similar or equivalent prescription drug coverage. Trillium Drug Program registrants pay an annual deductible based on their household income.

There is a \$2 ODB co-payment per prescription, but some pharmacies choose not to charge the co-payment to their clients. If you have concerns about your ODB coverage, you should get legal advice (see page 52).

You can get more information about Ontario Drug Benefit programs by calling Service Ontario: toll-free telephone 1-866-532-3161, TTY 416-325-3408 and TTY toll-free 1-800-268-7095, or by visiting www.health.gov.on.ca/en/public/programs/drugs/default.aspx

CHILD BENEFITS

There are child benefits available from the Government of Canada and the Government of Ontario. The primary benefit is the Canada Child Tax Benefit, which is a tax-free monthly payment made to eligible families to help them with the cost of raising children under the age of 18. Other government benefits may be available for low income families and for families with children with disabilities, and to assist with child care costs. Usually, you will be assessed for these benefits when you apply for the Canada Child Tax Benefit. You can get more information about the Canada Child Tax Benefits by calling the Government of Canada: toll-free telephone 1-800-387-1193, TTY toll-free 1-800-665-0354, www.cra-arc.gc.ca/bnfts/cctb/menu-eng.html

The Assistance for Children with Severe Disabilities (ACSD) program is provided by the Ontario government to help with extra costs, including prescription medications, respite care, etc. You

must apply to the government of Ontario to receive the ACSD. You can get more information about the ACSD by calling Service Ontario: telephone 416-326-1234 or toll-free 1-800-267-8097, TTY 416-325-3408 and TTY toll-free 1-800-268-7095, or by visiting www.children.gov.on.ca/htdocs/English/topics/specialneeds/disabilities/index.aspx

The Special Services At Home (SSAH) benefit is provided by the Ontario government to help if you are caring for a child or adult with developmental disabilities. The SSAH can help you to pay for supports, respite care, etc. You must apply to receive SSAH. You can get more information about the SSAH, by calling Service Ontario: telephone 416-326-1234 or toll-free 1-800-267-8097, TTY 416-325-3408 and TTY toll-free 1-800-268-7095, or by visiting www.children.gov.on.ca/htdocs/English/topics/specialneeds/specialservices/index.aspx

If someone else is caring for your children under the age of 18, that person may be eligible for Ontario Works Temporary Care Assistance

benefits for your child(ren). You can get more information about Ontario Works by calling Service Ontario: telephone 416-326-1234 or toll-free 1-800-267-8097, TTY 416-325-3408 and TTY toll-free 1-800-268-7095, or by visiting www.mcsc.gov.on.ca/en/mcsc/programs/social/ow/apply.aspx

Government benefits for children are usually paid to the child's primary caregiver or custodial parent. Some child benefits may be shared if there is more than one primary caregiver. If there is a change in primary caregiver or custodial parent, the new caregiver will need to apply to receive the child benefits. The new caregiver will have to show some proof of the change, such as an agreement, a custody order or a will, and, will need to contact the child benefit provider(s), for example the Canada Child Tax Benefit Program, the Assistance for Children with Severe Disabilities, etc. (see above for contact information).

If you have questions or concerns about child benefits, you should get legal advice (see page 52)

TAX CREDITS, BENEFITS AND INCENTIVES

There are many tax credits, benefits and incentives available from the Canadian and Ontario governments.

This Government of Ontario website has information about tax credits, benefits and incentives: www.rev.gov.on.ca/en/taxcredits/index.html

This Government of Canada website has information about tax credits and benefits: www.canadabenefits.gc.ca

FUNERAL COSTS

Funeral costs may be covered by several different sources.

The Canada Pension Plan (CPP) Death Benefit is a one-time payment which can be claimed by your "estate" or by whoever pays for your funeral. The amount of the CPP Death benefit depends on how much you have contributed to CPP and for how long you have contributed before your death.

The maximum CPP Death benefit is \$2,500.00. The application should be made within 60 days of your death (see Canada Pension Plan information on page 34).

If your death is related to a work-related injury or disease, the Workplace Safety and Insurance Board (WSIB) may provide funeral expenses up to a maximum amount. WSIB may also pay for bereavement counselling, survivor benefits, and assistance for the surviving spouse or partner to re-enter the work force. The amount and type of benefits depends on a number of factors and can be complicated. See WSIB information on page 36 for sources of information and advice about WSIB.

Ontario Works (OW) may pay for the basic funeral expenses of people who were eligible for or receiving OW or Ontario Disability Support Program (ODSP) at the time of death. OW may also pay for funeral costs if the deceased person was not receiving OW or ODSP but did not have enough money in their estate to fully cover the cost of a basic funeral

(see OW information on page 29). If OW pays for funeral expenses, OW can recover the funeral costs from the deceased person's bank account, assets, Canada Pension Plan death benefit, insurance or other benefits.

If you or anyone in your family wants to be buried in another country, you should plan now to cover the costs as it can be very expensive and is not usually covered by most funeral benefits.

The Ontario Ministry of Consumer Services includes information about cemeteries, funerals, etc. on its website: www.sse.gov.on.ca/mcs/en/Pages/Cemeteries_and_Funerals.aspx

PRIVATE INSURANCE AND PREPAID FUNERALS

You can buy funeral insurance from an insurance company. The insurance terms will depend on your contract with the insurance company. You can also prearrange and prepay your funeral through a contract with a funeral service provider.

Your contract with the funeral service provider will set out the arrangements. You should be sure to closely review the document before you sign any contract or agreement. The Board of Funeral Services (Ontario) has Consumer Information on its website including brochures and planning guides: www.funeralboard.com. The Ontario Ministry of Consumer Services also includes information about cemeteries, funerals, etc. on its website: www.sse.gov.on.ca/mcs/en/Pages/Cemetaries_and_Funerals.aspx

8. How can I start saving money now?

HIV is a chronic, episodic illness, so job security is difficult to predict. If you are in a position to start saving for your and your children's future, you can start now. Also, be sure to take advantage of all the tax credits that you and your family are eligible to receive (see **Tax Credits and Benefits** on page 42 above, and **Child Benefits** on page 41).

DISABILITY TAX CREDIT (DTC)

The Disability Tax Credit (DTC) may help you to reduce the amount of income tax that you have to pay. You or your dependants may be eligible for the DTC. A dependant for the DTC can be your spouse or common-law partner, your or your spouse's or common-law partner's parent, grand-parent, child, grandchild, brother, sister, aunt, uncle, niece or nephew. You may be able to claim your dependant's DTC to reduce your own income tax. The rules can be complicated, so you should get advice from an income tax expert. AIDS service organizations (ASOs) and community agencies often have free income tax clinics



(see page 49 for more information about community organizations and ASOs).

You can get more information about tax deductions for people with disabilities, including the Disability Tax Credit/Disability Amount, from the Canada Revenue Agency at toll-free telephone 1-800-959-8281, TTY toll-free 1-800-665-0354. www.cra-arc.gc.ca/tx/ndvdls/sgmnts/dsblts/ddctns/menu-eng.html

REGISTERED DISABILITY SAVINGS PLANS (RDSPS)

Registered Disability Savings Plans (RDSPs) are a very good saving option for people with disabilities. If you are under 60 years of age and eligible for the Disability Tax Credit (DTC), then you are eligible to be a “beneficiary” for an RDSP (see page 45 for Disability Tax Credit information). You or other people can contribute to your RDSP. If your children are eligible for the DTC, you can also start an RDSP for them.

For RDSP beneficiaries who are up to 49 years of age and who have low or modest family income, the federal government provides:

- a bond of up to \$1,000 per year into the RDSP, even if there are no contributions to the RDSP, to a lifetime maximum of \$20,000; and
- Matching grants of 100%, 200% or 300% of annual RDSP contributions up to \$3,500 per year, to a lifetime maximum of \$70,000 in grants.

However, if your RDSP includes government grants and bonds, the money in the RDSP must remain in the RDSP for a certain period of time, or you will have to repay the government for some or all of the government grants and bonds.

RDSPs do not affect your ODSP and OW benefits. However, you must tell ODSP/OW if you or anyone in your benefit unit starts or has an RDSP. See page 32 for more information about what you must report to ODSP and OW.

Here are links to Government of Canada information about RDSPs:

www.hrsdc.gc.ca/eng/disability_issues/disability_savings/index.shtml

www.cra-arc.gc.ca/tx/ndvdl/tpcs/rdsp-reei/menu-eng.html

REGISTERED RETIREMENT SAVINGS PLANS (RRSPS)

If you or your spouse/partner work and have employment income, you can save money in a Registered Retirement Savings Plan (RRSP). RRSP contributions can be used to reduce your income tax. Any income you earn in the RRSP is usually exempt from income tax until you cash in, make withdrawals, or receive payments from your RRSP. The amount you can contribute to an RRSP each year depends on the amount of your employment income. RRSPs may affect your ODSP and OW benefits. You must tell ODSP/OW if you or anyone in your benefit unit starts or has any RRSPs. For more information about RRSPs and ODSP/OW, contact your local legal clinic. See page 32 for more information about what you must report to ODSP and OW.

Here is a link to Government of Canada information about RRSPs:

www.cra-arc.gc.ca/tx/ndvdl/tpcs/rrsp-reer/rrsps-eng.html

REGISTERED EDUCATION SAVINGS PLANS (RESPS)

You can start saving for your children's post-secondary education by starting a Registered Education Savings Plan (RESP). Even if you contribute a small amount of money each month, it can add up to a lot for your children's education.

You will need a Social Insurance Number (SIN) for you and for your child. You will also need to choose an RESP provider. It is important to be very careful to choose the right type of RESP and the right RESP provider. Some providers charge fees. Also, there are a lot of rules about RESPs and you do not want to lose the money you invest. If you receive the National Child Benefit Supplement for your child, the government of Canada may contribute to your child's RESP even if you do not put any money in the RESP yourself. The government of Canada can also contribute to your child's RESP through the Canada Education Savings Grant (CESG) and there

is an additional CESG for lower income households.

An RESP will not affect your ODSP/OW, but you must tell ODSP/OW if you or your child start or have an RESP. See page 32 for more information about what you must report to ODSP and OW.

The Can Learn website has a lot of general information about RESPs, including information about options, choosing an RESP provider, government bonds and grants, etc. Here is a link to the Can Learn website: www.canlearn.ca/eng/saving/resp/index.shtml

TAX-FREE SAVINGS ACCOUNTS (TFSAS)

Tax-Free Savings Accounts (TFSAs) are registered savings accounts that let you earn tax-free investment income. Canadian residents age 18 or older can contribute up to \$5,000 annually to a TFSA. Money you put into a TFSA is not tax deductible (like RRSPs) but investment income and withdrawals from TFSAs are tax-free. TFSAs affect your ODSP and OW benefits. **You must tell ODSP/OW if you or anyone in your benefit unit starts or has a TFSA.** See page 32 for more information about what you must report to ODSP and OW.

Here is a link to information about TFSAs from the Government of Canada: www.tfsa.gc.ca/index.html

9. How can my loved ones and I cope?

HIV has an impact on you and your loved ones in many ways: emotionally, physically, spiritually, and psychologically. It is a good idea to find out about the services that can help you and your family members so you can all try to cope. There are many supports and services available, including:

- your doctor,
- social workers,
- public health nurses,
- AIDS Service Organizations (ASOs),
- counselling services,
- home care, and
- hospices.



COMMUNITY SERVICES

211 is a three-digit toll-free telephone number and website that provides information and referrals to community, government and social services in Ontario. Dial 211 or visit www.211ontario.ca/

HOME CARE, LONG-TERM CARE, AND COMMUNITY CARE ACCESS CENTRES

Community Care Access Centres (CCACs) can help you to get services and care in your own home, and can provide you with information about other options if you can no longer live at home. You can find your local Community Care Access Centre by calling 310-2222 toll-free from anywhere in Ontario, www.ccac-ont.ca/

HOSPICES

“Hospice” care can include residential care, as well as services such as in-home care, respite care, spiritual support, wellness programs, bereavement support, children’s support and other supportive services (see page 27). Hospice Ontario can help you to locate hospice and palliative care services in your community: telephone 416-979-9779 or toll-free 1-800-349-3111, www.hospiceontario.ca

COUNSELLING AND SUPPORT

AIDS & SEXUAL HEALTH INFO LINE

The AIDS & Sexual Health Info Line is a province-wide free anonymous telephone service that offers assistance in different languages: telephone 416-392-2437 or toll free: 1-800-668-2437, www.toronto.ca/health/ai_index.htm

AIDS SERVICE ORGANIZATIONS

AIDS Service Organizations (ASOs) across Ontario provide a variety of supports to you and your loved ones. ASO411 is an on-line directory to help you find services in your area: www.aso411.ca

ONTARIO ABORIGINAL HIV/AIDS STRATEGY (OAHAS)

OAHAS provides culturally respectful programs and has regional offices in communities across Ontario: telephone 416-944-9481 or toll-free 1-800-743-8851, www.oahas.org/

THE TERESA GROUP

The Teresa Group provides programs and supports for children and families affected by HIV in Ontario: telephone 416-596-7703, www.teresagroup.ca/

PRISONERS' HIV/AIDS SUPPORT ACTION NETWORK (PASAN)

PASAN offers support services to prisoners, ex-prisoners, young offenders, and their families: telephone 416-920-9567 or toll-free 1-866-224-9978, www.pasan.org/

FAMILY/DOMESTIC VIOLENCE

If you are afraid that someone might hurt you, your child or someone that you know, you can talk to a lawyer or a legal clinic to find out about options (see page 52 for legal help). Here are some other sources of information:

The Assaulted Women's Helpline is a free 24 hour confidential telephone service for women in Ontario: telephone 416-863-0511 or toll-free 1-866-863-0511, TTY 416-364-8762 or TTY toll-free 1-866-863-7868, www.awhl.org/

Community Legal Education Ontario (CLEO) *Do you know a woman who is being abused?* A

legal rights handbook: www.cleo.on.ca/english/pub/onpub/PDF/criminal/handbook.pdf

Community Legal Education Ontario (CLEO) *Elder Abuse* booklet: www.cleo.on.ca/english/pub/onpub/PDF/seniors/elderab.pdf

Legal Aid Ontario Domestic Violence information: telephone 416-979-1446 or toll-free 1-800-668-8258, TTY 416-598-8867 or TTY toll-free 1-866-641-8867, www.legalaid.on.ca/en/getting/type_domesticviolence.asp

10. Resources – Where can I get more legal information and help?

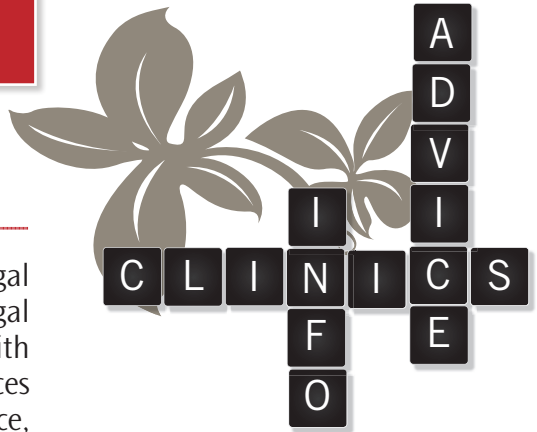
ONTARIO COMMUNITY LEGAL CLINICS

HIV & AIDS LEGAL CLINIC ONTARIO (HALCO)

HALCO is a community legal clinic that provides free legal services to people living with HIV in Ontario. HALCO services include information, advice, referrals and representation, as well as public legal education: telephone 416-340-7790 or toll-free 1-888-705-8889, www.halco.org

OTHER COMMUNITY LEGAL CLINICS IN ONTARIO

Community legal clinics provide free legal information and assistance to people in Ontario. You can find the local community legal clinic for your area by calling Legal Aid Ontario: telephone 416-979-1446 or toll-free 1-800-668-8258, TTY 416-598-8867 or TTY toll-free 1-866-641-8867, www.legalaid.on.ca/en/contact/contact.asp?type=cl



ARCH Disability Law Centre is a community legal clinic that specializes in legal issues for people with disabilities in Ontario: telephone 416-482-8255 or toll-free 1-866-482-2724, TTY 416-482-1254 or TTY toll-free 1-866-482-2728, www.archdisabilitylaw.ca/

Justice for Children and Youth is a community legal clinic that specializes in legal issues for children and youth in Ontario: telephone 416-920-1633 or toll-free 1-866-999-5329, www.jfcy.org

Advocacy Centre for the Elderly (ACE) is a community legal clinic that specializes in legal issues for older adults in Ontario: 416-598-2656 www.ancelaw.ca/

Community Legal Clinics that specialize in Ontario Workplace Safety and Insurance Board (WSIB) matters:

Industrial Accident Victims Group of Ontario: telephone 416-924-6477 or toll-free 1-877-230-6311, www.iavgo.org/

Injured Workers Consultants: telephone 416-461-2411, www.injuredworkersonline.org/

Community Legal Education Ontario (CLEO) produces public legal education materials that you can access on the CLEO website and you can order print copies: telephone 416-408-4420, www.cleo.on.ca/

OTHER LEGAL ADVICE AND ASSISTANCE

LEGAL AID ONTARIO

Legal Aid Ontario provides a range of legal services for people with limited incomes in Ontario: telephone 416-979-1446 or toll-free 1-800-668-8258, TTY 416-598-8867 or TTY toll-free 1-866-641-8867, www.legalaid.on.ca/

LAWYER REFERRAL SERVICE

The Lawyer Referral Service can refer you to a lawyer for up to 30 minutes of free legal advice: telephone 416-947-3330 or toll-free 1-800-268-8326, TTY 416-644-4886, www.lsuc.on.ca/faq.aspx?id=2147486372

GOVERNMENT INFORMATION

MUNICIPAL/LOCAL GOVERNMENT INFORMATION

Some municipal/local governments have 311 telephone and on-line information services for information about local government services. If you do not have 311 service in your local area, you can check the blue pages of your telephone book for your local government information.

ONTARIO GOVERNMENT INFORMATION



Service Ontario offers information and access to a wide range of Government of Ontario programs and services for residents of Ontario: telephone 416-326-1234 or toll-free 1-800-267-8097, TTY 416-325-3408 or TTY toll-free 1-800-268-7095, www.ontario.ca/

The Ontario Government website about *What to Do When Someone Dies*: www.ontario.ca/en/life_events/death/004448.html

GOVERNMENT OF CANADA INFORMATION

Service Canada offers information and access to a wide range of Government of Canada programs and services: toll-free telephone 1-800-622-6232, TTY toll-free 1-800-926-9105, www.servicecanada.gc.ca/

The Government of Canada website about *What to Do Following a Death*: www.servicecanada.gc.ca/eng/lifeevents/loss.shtml



It is strongly recommended that you get legal advice about your will, Powers of Attorney, benefits, housing, and other legal matters like child custody.

If a parent or partner dies it is very important to get legal advice right away.

This booklet contains general legal information for people living in Ontario, it is not legal advice. The law and policy can change. It is very important to get legal advice about your own situation.

If you are living with HIV in Ontario, you can call the HIV & AIDS Legal Clinic Ontario (HALCO).

See page 52 to find out about getting legal advice.

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The HIV & AIDS Legal Clinic Ontario, known as HALCO, is a charitable, not-for-profit community legal clinic that provides free legal services to people living with HIV in Ontario. HALCO is funded by Legal Aid Ontario, the AIDS Bureau of the Ontario Ministry of Health and Long-Term Care, and other sources including corporate, foundation, and individual donors. HALCO services include legal advice and representation, public legal education, law reform and community development activities (see page 52 for HALCO contact information).

The African and Caribbean Council on HIV/AIDS in Ontario (ACCHO) provides leadership in the response to HIV and AIDS in African, Caribbean and Black communities in Ontario. ACCHO is a provincial coalition of organizations and individuals committed to HIV prevention, education, advocacy, research, treatment, care and support for African, Caribbean and Black communities. With its members ACCHO strives to reduce the incidence of HIV among African, Caribbean and Black people in Ontario, and to improve the quality of life for those infected and affected by HIV/AIDS through the implementation of the *Strategy to Address Issues Related to HIV Faced by People in Ontario from Countries Where HIV is Endemic*. This is done through coordination of the implementation of the Strategy, capacity development and community engagement, as well as research and advocacy (see next page for ACCHO contact information).

COPIES OF THIS GUIDE ARE AVAILABLE FROM:

CATIE Ordering Centre
Telephone: 1-800-263-1638
Email: orderingcentre@catie.ca
www.catie.ca

African and Caribbean Council on HIV/AIDS in Ontario
20 Victoria Street, 4th Floor
Toronto, Ontario M5C 2N8
Telephone: 416-977-9955 ext. 293
www.accho.ca

You may copy or print this guide in its entirety, but copies must not be sold, and the African and Caribbean Council on HIV/AIDS in Ontario (ACCHO) and the HIV & AIDS Legal Clinic Ontario (HALCO) must be cited as the source.

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