



Memo

To: Community Clinics
From: ACLCO
Date: December 16, 2019
Re: Bill 161 – Next Steps

On December 9th the provincial government introduced Bill 161, the omnibus justice bill that amends the *Legal Aid Services Act* (LASA). At the same time, the Attorney General, Doug Downey, announced that next year's proposed budget cuts to legal aid have been taken off the table, but that this year's cuts will remain in place. As communicated in our Update Memo of December 9th, the ACLCO applauded the inclusion of community clinics and poverty law services in Bill 161, and the roll back of next year's cuts, while criticizing the government's unwillingness to roll back this year's funding cuts. The ACLCO's positive comments about Bill 161 are based on the fact that the government's position regarding the protection of the clinic model shifted significantly over the last few months leading to the legislation containing:

- Recognition of independent community clinics
- Recognition of poverty law
- Recognition that clinics are governed by boards of directors drawn from the communities we serve
- Recognition that clinics assess the needs of their communities and determine the services to meet those needs
- An absence of any prohibition against clinics engaging in any form of legal services, including law reform or community development work (mirroring what currently exists in LASA).

We understand that some groups and clinics have concerns about the new Bill; about whether it provides sufficient protection for community clinics, and more generally for legal aid. The ACLCO recognizes that there are flaws in Bill 161. However, we believe that the protections it contains for clinics are real and substantial and generally carry on those contained in LASA. This opinion comes not only from our reading of the Bill, but from conversations the ACLCO has had with the Attorney General, with his staff, and with senior representatives at LAO. They have all assured us that they believe that the Bill maintains the protections for the clinic model currently contained in LASA, and they have all

confirmed that they support the clinic system continuing to do the work it currently does, utilizing the tools it currently has at its disposal.

However, despite our belief that this is good news, and that Bill 161 provides the clinics with significant protection, the ACLCO also believes that there is room for improvement in the new legislation, including in the sections that expressly recognize and support the community clinic model. For example, the definition of poverty law services is unnecessarily restrictive. As well, although the Bill expressly refers to “community” clinics and boards of directors drawn from the “community” served, and clinics assessing the needs of their “communities”, some of the language regarding community services could be enhanced. The wording of other sections could be improved as well. The minister and his staff have given us their direct assurances that they are open to changes to the Bill and have indicated that they are happy to meet with the ACLCO in the new year to discuss these.

The ACLCO has struck a Legislative Review Committee to thoroughly examine and analyze the legislation. Our goal is to provide the government with proposed changes. We encourage clinics to review the Bill and to provide your clinic’s input to the committee, through the ACLCO’s Policy Counsel, Ivana Petricone. At the same time the ACLCO is working with its colleagues on the Alliance for Sustainable Legal Aid (ASLA), who are also reviewing the Bill. Once we have an ACLCO analysis ready (likely early in 2020) we will send it to all member clinics for review.

At the same time the ACLCO will be meeting with LAO to both discuss the legislation and the next steps in clinic modernization, specifically the process to develop a new set of foundational documents between LAO and clinics.

The ACLCO’s approach is to take up the Attorney General’s and LAO’s offers to meet and to discuss these matters. We are encouraged by their statements in support of independent community clinics, clinic boards of directors, and the full range of services that community clinics provide. It will be our goal to incorporate these aspects of the clinic model in the new foundational documents, in addition to the new legislation. However, as it is the ACLCO’s primary mandate to protect and preserve the community clinic system in Ontario, if we sense that these discussions are not going well, or that threats to the system exist, we will be ready to challenge both LAO and the government at these meetings, and publicly, as was done in the wake of the spring provincial budget.

In fact, the ACLCO believes that it is important that clinics and our allies continue to pressure the government regarding legal aid’s budget. The Attorney General’s announcement that future cuts are now off the table is very welcome news, and we have stated that publicly. But, the ACLCO has also stated that the damage done to individual clinics and to the clinic system by this year’s cuts is unacceptable and must be remedied. We will continue to take that perspective in discussions with the government, and with LAO, and as they engage in the planning process for next year’s budget.

If you have any questions or concerns about this, please do not hesitate to contact Lenny Abramowicz, or any member of the ACLCO Executive.