

Ontario, Canada

Community Paralegals: Recognition & Financing



Community paralegals are trained in basic law and in skills like mediation, organizing, education, and advocacy.

They are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. All share a common purpose: to help people to understand, use, and shape the law.

Introduction

Community paralegals are dedicated to legal empowerment: they help people to understand, use, and shape the law. These advocates are called different names in different places – including "community legal worker," "barefoot lawyer," "grassroots legal advocate," or a host of other titles. They are trained in law and policy and in skills like mediation, organizing, and advocacy. Some are generalist – they engage whatever justice issues community members bring to them. Others specialize – they may focus on supporting survivors of sexual violence, or protecting community land rights, or in addressing failures in the delivery of public services.

Community paralegals are client-facing. Although they are called "community paralegals," they are not the kind of paralegals who primarily serve as lawyers' assistants. Community paralegals work with clients to seek concrete solutions to instances of injustice, often at the community or administrative levels. They form a dynamic, creative frontline that can engage formal and traditional institutions alike. Moreover, just as primary health workers are connected to doctors, community paralegals are often connected to lawyers who may help to pursue litigation or high-level advocacy if frontline methods fail.

This research brief is part of a series that reviews the nature of the work undertaken by community paralegals, and the extent to which that work is recognized or funded by government. Please note that the first briefs published for this series focus on the types of community paralegals who have been formally recognized either in law or policy. We acknowledge that this is just a small part of a much larger picture. Beyond the government-recognized paralegals discussed in these briefs, a broader, dynamic ecosystem of community paralegals operates effectively without state recognition in many countries. We aim to one day expand our research to offer a more comprehensive analysis of this larger universe. For now, however, our research briefs are limited to offering summary information and illustrative examples of the community paralegals who have been formally recognized by law or policy.

Each of these briefs is a living document-- if you have an update, addition or a correction, please contact us at community@namati.org.

Acknowledgements

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Notes		
NATURE OF WORK		
Recognition*		
Are community paralegals formally recognized?	Yes	In administrative documents in connection with Legal Aid Ontario's funding of Community Legal Clinics (CLCs).
What are community paralegals called?	-	Formally, "community legal workers" (CLWs), some of whom are licensed under the formal regime governing paralegals.
Recognized Functions**		
Educating community and clients about the law?	Yes	-
Mediating disputes?	No	CLWs may refer clients to mediation services.
Organizing community members for collective action?	Yes	
Advocating to authorities?	Yes	.
Monitoring for violations of rights?	Yes	.
Litigating (with or without the help of lawyers)?		CLWs who are supervised by CLC lawyers or are licensed paralegals can assist in civil and administrative matters.
- Criminal	No	
- Civil	Yes	
Navigating administrative processes?	Yes	
Recognized Places of Work		
Government-run offices or legal aid centers?	No	CLCs are independent non-profit community-based incorporated organizations funded by Legal Aid Ontario.
Non Governmental Organizations?	Yes	
Independent practice?	No	CLWs who are not licensed paralegals can only practice in CLCs.
INDEPENDENCE AND ACCOUNTABILITY		
Is the independence of community paralegals explicitly protected?	Yes	The independence of CLWs is guaranteed through the independence of their CLC's board of directors.
Are there boards or bodies that monitor community paralegals?	Yes	CLWs are monitored indirectly by the CLCs' board of directors as their employers.
If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)?	Yes	
If so, do these boards or bodies include civil society representatives?	Yes	

		Notes
QUALITY AND STANDARDS		
Must community paralegals meet certain criteria in order to practice?	Yes	CLWs must meet competency requirements and performance standards set by the CLC.
Is there a board, body, or certification scheme to recognize qualified community paralegals?	No	CLWs who choose to become paralegals will need to obtain licenses.
SCALE AND FINANCING		
Does any public revenue fund community paralegals?	Yes	

Do Community Paralegals Work on this Issue?	Is Community Paralegal Work on this Issue Formally Recognized?	Does the Government Fund Community Paralegals who Work on this Issue?
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Note: Community legal clinics are funded by Legal Aid Ontario which is in turn funded by the government of the province of Ontario. Formal recognition of a CLW's work is a result of their respective CLC's mandate.

Issues			
Criminal Justice	No	No	No
Civil and Political Rights	Yes	Yes	Yes
Education	Yes	Yes	Yes
Environmental Justice	Yes	Yes	Yes
Family Law	No	No	No
Health	Yes	Yes	Yes
Housing	Yes	Yes	Yes
Labor & Employment	Yes	Yes	Yes
Land & Natural Resources	Yes	Yes	Yes
Migrants, Refugees, & Citizenship	Yes	Yes	Yes
Peace-building	No	No	No
Transparency	Yes	Yes	Yes
Water & Sanitation	Yes	Yes	Yes

Key	
N/S = Not specified	? = Unknown. To share data on this point, contact community@namati.org

*Note that we consider the following as sources of formal recognition: legislation, regulations, policies, court judgments, memorandums of understanding, etc.

**Note that as a result of the CLWs' formal recognition arising out of administrative documents, their recognized functions reflect historic practice of CLWs in clinics.

The Law In Practice

Defining Community Paralegals

Are community paralegals recognized? How are they defined?

Community legal workers (CLWs) were amongst the initial founders of Ontario's community legal clinic (CLC) system dating back to the 1970s.¹ CLWs are the functional equivalent of community paralegals and are employed by CLCs. CLCs are funded by Legal Aid Ontario (LAO) under the authority of the Legal Aid Services Act, 1998. When CLCs began receiving funding grants from the provincial government through the former Ontario Legal Aid Plan (now replaced by Legal Aid Ontario), CLWs were recognized as one of five CLC job classes for which specific funding was provided. Generally speaking, a CLW provides legal and certain other services at CLCs. This may include providing referrals, legal information and advice, representation of individual clients, public outreach, public legal education and legal literacy, community development and legal empowerment assistance, systemic advocacy, and pursuing law reform objectives. After the introduction of a formal licensing regime intended at persons (who were not lawyers) representing clients without regulation, some CLWs chose to obtain a license and be regulated by the Law Society of Ontario (prior to May 2018, the Law Society of Upper Canada). As will be explained in this brief, CLWs who have not obtained the license continue to work at CLCs by virtue of an exemption in a by-law.

The Law Society of Ontario as the provincial regulator for lawyers and paralegals requires persons providing legal services to obtain licenses.² In 2007, the Law Society of Ontario introduced a formal licensing regime for paralegals.³ They can now practice in some areas of law in Ontario through a Class P1 license.⁴ The comprehensive regulatory system administered by the Law Society includes regulations regarding educational standards, rules of professional conduct, licensing process, insurance requirements, complaint and disciplinary process, and a client compensation fund.⁵ Under this regime, licensed paralegals can provide advice, draft documents, conduct negotiations and represent clients in small claims court, before administrative tribunals, and – for certain offenses – before the Ontario Court of Justice. However, licensed paralegals are not presently permitted to provide advice regarding family matters or represent clients in Family Court.⁶ They are also prohibited from providing select legal services including drafting wills or handling real estate transactions.⁷

¹ For an understanding of community legal clinics in Ontario, see Peter Chapman & Michele M. Leering, *Delivering Community Justice Services at Scale: Ontario, Canada*, OPEN SOCIETY FOUNDATIONS (2015), https://namati.org/wp-content/uploads/2017/07/Ontario-Canada_InstitutionalizationScale.pdf.

² *By-Law 4 of the Law Society Act*, LAW SOCIETY OF ONTARIO, Section 30, (2007) <https://www.lsuc.on.ca/uploadedFiles/By-Law-4-Licensing-01-15-18.pdf>.

³ Law Society of Ontario, *Media Advisory: Law Society Is One Step Closer to Licensing Paralegals*, MARKETWIRED, (Nov. 5th, 2007),

<http://www.marketwired.com/press-release/media-advisory-law-society-is-one-step-closer-to-licensing-paralegals-1017619.htm>.

⁴ *Paralegal Licensing Process Policies*, LAW SOCIETY OF ONTARIO, (2018), <https://www.lsuc.on.ca/ParalegalLicensingProcessPolicies/>.

⁵ *Paralegal Regulation Resources*, LAW SOCIETY OF ONTARIO, (2018), <http://www.lsuc.on.ca/For-Paralegals/About-Your-Licence/Paralegal-Regulation-Resources>.

⁶ *Legals and Paralegals: Helping You with your Legal Needs*, LAW SOCIETY OF ONTARIO, http://www.lsuc.on.ca/media/lawyers_paralegals_public.pdf.

⁷ *Paralegal Licensing Frequently Asked Questions*, LAW SOCIETY OF ONTARIO, <http://www.lsuc.on.ca/licensingprocessparalegal.aspx?id=2147491230#s1q1>.

The Law Society of Ontario exempted CLWs in CLCs who worked under the supervision of lawyers and have professional insurance from having to obtain a license to practice law. CLWs are able to provide such services by virtue of an exemption contained in By-Law 4 of the Law Society Act, the law that regulates the legal profession in Ontario. Section 30 in By-Law 4 permits CLWs employed by CLCs and who have professional liability insurance coverage to provide a range of legal services.⁸ This provision is complemented by the Commentary to Rule 6.1 of the Law Society of Ontario's Rules of Professional Conduct. The commentary clarifies that a non-lawyer may perform tasks typically reserved to lawyers so long as they are employed by a CLC and directly supervised by a lawyer who assumes full responsibility for their work.⁹ Thus, CLWs working in CLCs can provide certain legal services under the supervision of a CLC lawyer.

Even though they are not legally required to, many CLWs are choosing to become licensed paralegals. Following the implementation of Ontario's paralegal licensing system, some individual CLCs have opted to make a paralegal license a precondition for employment as a CLW.¹⁰ In other CLCs, even though licensing was not required as a condition of employment, some CLWs chose to become paralegals under certain grandfathering provisions allowed by the Law Society of Ontario at the time the new licensing regime was put into place. They did not have to pursue additional formal education, and only had to write a final exam. LAO has provided funding to cover licensing fees for CLWs who are licensed paralegals. In this brief, the term CLWs refers to those employed by CLCs (whether licensed or not) – these professionals perform work that is very different from the majority of licensed paralegals in Ontario who do not work in clinics. The distinction between CLWs who are licensed paralegals and CLWs who are not licensed paralegals will be made where different rules or regulations apply.

In this brief, we refer to community paralegals working at legal clinics in Ontario as “community legal workers”, or “CLWs”.

What do community paralegals do? What issues do they focus on?

The community legal workers do a broad range of work depending on the priorities set by the board of directors of the CLCs at which they work.¹¹ Ontario enacted its original Legal Aid Act in 1966 and created the Ontario Legal Aid Plan (OLAP), providing legal aid certificates to poor individuals that could be redeemed by a lawyer for legal assistance in civil, criminal, or quasi-judicial proceedings. In the late-1960s, it was recognized that the legal aid system which was based on norms of the fee-paying client, were inadequate and often inappropriate in serving the legal problems experienced by the poor.¹² The first CLCs were then funded to fill the gaps in the OLAP and to provide legal assistance in areas not recognized under the then-existing formal statutory framework. The

⁸ *By-Law 4 of the Law Society Act*, *supra* Note 2.

⁹ *Rules of Professional Conduct*, LAW SOCIETY OF ONTARIO, Commentary 1-1 to Section 6.1, (2000), <http://www.lsuc.on.ca/relationship-to-students-employees-and-others/>.

¹⁰ Interview with Michele M. Leering, Executive Director and Lawyer of the Community Advocacy and Legal Centre (Belleville, ON), November 20, 2017.

¹¹ Peter Chapman & Michele M. Leering, *supra* Note 1 at 1- 4.

¹² Mary Jane Mossman, *Community Legal Clinics in Ontario*, OSGOODE HALL LAW SCHOOL OF YORK UNIVERSITY, P. 389, (1983).

pioneering CLCs sought to develop and provide a specialized poverty law service, meeting community demand in the fields of welfare, workers' compensation, immigration issues, and rent agreements, effectively offering a broad range of services that went beyond services to individuals.¹³

CLCs now provide legal services in the areas of law which affect low-income individuals or disadvantaged communities in particular, including legal matters related to housing and shelter, income maintenance, social assistance and other similar government programs, as well as human rights, health, employment, and education.¹⁴ Further, "community development and organizing, law reform, and public legal education" are areas in which CLCs are specifically authorized by law to provide assistance; they often do so with the assistance of their CLWs.¹⁵ Some CLCs also engage in monitoring for violations of rights.

By Law 4 permits CLWs supervised by lawyers to appear in Small Claims Courts, in civil proceedings under the Provincial Offences Act, before a summary conviction court in criminal proceedings under the Criminal Code, and before certain government tribunals.¹⁶ CLWs do not in practice appear in courts dealing with family and criminal law matters because CLCs do not generally provide assistance with family and criminal law matters. These services are provided by staff employed by Legal Aid Ontario or private bar lawyers on legal aid certificates (judicare). CLCs do however assist with claims before the Criminal Injuries Compensation Board (a tribunal which assesses financial compensation for victims of violent crimes in Ontario).

Where do community paralegals work?

CLWs work through a network of 76 CLCs throughout the province of Ontario.¹⁷ The majority of these CLCs are general service clinics that serve a particular area in Ontario. Seventeen of these CLCs in Ontario are specialty clinics that serve particular types of legal interests and may have a provincial mandate.¹⁸ These clinics represent specific communities of interest (for example, youth, seniors, or people living with HIV/AIDS) and deal with specific areas of law pertaining to these communities.¹⁹

¹³ *Id.*, at 386.

¹⁴ These areas are specifically identified as "clinic law" under the Legal Aid Services Act, 1998. Also see, *Community Legal Clinics*, LEGAL AID ONTARIO, (2017), http://www.legalaid.on.ca/en/about/fact_communityclinics.asp.

¹⁵ LAO-Clinic MOU, Section 3(b), ASSOCIATION OF COMMUNITY LEGAL CLINICS OF ONTARIO, http://www.aclco.org/LAO-Clinic_MOU.html.

¹⁶ *By-Law 4 of the Law Society Act*, *supra* Note 2, Section 6(2)(2).

¹⁷ *Community and Special Clinics*, LEGAL AID ONTARIO, (2017), http://www.legalaid.on.ca/en/getting/type_civil-clinics.asp.

¹⁸ Peter Chapman & Michele M. Leering, *supra* Note 1 at 3.

¹⁹ *Specialty Clinics*, LEGAL AID ONTARIO, (2017) <http://www.legalaid.on.ca/en/contact/contact.asp?type=scl>.

Independence and Accountability

Is the independence of community paralegals explicitly protected?

CLCs are defined in the Legal Aid Services Act as “independent community organization[s]”.²⁰ CLWs that work in CLCs are non-profit sector employees and are responsible to their executive director and their board of directors. CLCs as well as the CLWs they employ are highly independent from government influence in practice.²¹ From the inception of CLCs, the Government of Ontario endorsed full independence of the clinics – within prescribed limits. The 1978 *Report of the Commission on Clinical Funding* (otherwise known as the *Grange Report*) stated that CLCs should be entirely autonomous, limited only by the need to be accountable for the public funds financing the work and for the quality of the services rendered.²² Legal academic Mary Jane Mossman has argued that because LAO – which is not a Crown Corporation – determines how funds will be distributed to CLCs, they are effectively insulated from any political pressures exerted by the government of Ontario.²³ While the LAO’s budget may be cut in any given year, the ultimate decision as to how the total pool of funds will be distributed amongst clinics and other legal-service providers is not the governments’ to make.

Are there boards or bodies that monitor community paralegals? If so, are these boards or bodies separate from the government (e.g. Ministry of Justice)? Do these boards or bodies include civil society representatives?

Legal Aid Ontario (LAO) is the statutory body or corporation created by the Legal Aid Services Act and tasked with administering the system of legal aid in the province of Ontario. With the passing of the Legal Aid Services Act, Legal Aid Ontario assumed responsibility for the management, funding, and supervision of CLCs from the Law Society of Ontario, which had been administering the Ontario Legal Aid Plan since its inception. Thus, the monitoring and supervision of CLCs is the responsibility of LAO, which operates independently from the government but within a “framework of accountability to the Government of Ontario for the expenditure of public funds”.²⁴ Under the Legal Aid Services Act, LAO is tasked with “monitor[ing] the operation of a clinic funded by it to determine whether the clinic is meeting the Corporation’s standards for the operation of clinics...”²⁵

CLCs, and consequently the CLWs employed in them, are governed by independent boards of directors that are representative of the communities in which they serve.²⁶ In practice, the direct supervision of CLWs is carried out

²⁰ *Legal Aid Services Act, 1998*, S.O. 1998, c. 26 at Section 3(4).

²¹ Interview with Michele Leering, *supra* Note 10.

²² Mary Jane Mossman, *supra* Note 12, at 383.

²³ Mary Jane Mossman, *supra* Note 19, at 392.

²⁴ *About Legal Aid Ontario*, LEGAL AID ONTARIO, (2017), <http://www.legalaid.on.ca/en/about/>.

²⁵ *Legal Aid Services Act, 1998*, *supra* Note 20, Section 37(1).

²⁶ *Community Legal Clinics*, LEGAL AID ONTARIO, (2018), <https://www.legalaid.on.ca/en/contact/contact.asp?type=cl>. The Legal Aid Services Act also mandates that CLC boards be composed of “...members of the community or communities or to be served by the clinic”. Further, the LAO requires various forms of reporting as mandated by the LAO-Clinic Memorandum of Understanding, which obliges CLC boards to (Section 10(a)), “[E]nsure that the board is comprised of members of the communities to be served by the clinic and make reasonable efforts to have a board that includes persons representative of the low-income community, persons reflecting the diversity of the community...”

by the executive directors of the CLCs, who in turn are responsible to their boards for the management of the CLC. If a CLW is also a licensed paralegal, they must also comply with the Law Society's directives including the Paralegal Rules of Conduct and the Paralegal Professional Conduct Guidelines.²⁷

Quality and Standards

Must community paralegals meet certain criteria in order to practice? Is there a board, body, or certification scheme to recognize qualified community paralegals?

The hiring criteria, work responsibilities, competency requirements and performance standards of CLWs are determined by the individual CLCs. Legal Aid Ontario monitors quality assurance program standards adopted by community legal clinics throughout the province.²⁸ These standards have little impact on CLWs and their employment in practice.

As discussed above, if a CLW is also a paralegal licensed by the Law Society, a comprehensive regulatory system governs the practice of licensed paralegals, including with respect to educational standards, rules of professional conduct, licensing process, insurance requirements, mandatory continuing professional development, complaint and disciplinary process, and a client compensation fund.

Is community paralegal training available? What does it look like?

A wide-variety of professional development opportunities are available to CLWs including in-clinic training, communities of practice, study groups, virtual web conferences, and regional clinic training conferences. Additional learning opportunities are provided through the Ontario Project on Inter-Clinic Community Organizing (OPICCO), an inter-clinic group that is devoted to community development and grassroots organizing.²⁹ Funding is also available to CLWs to attend appropriate external training.³⁰

Public Financing

Does any public revenue fund community paralegals?

CLWs are employed by CLCs. CLCs are primarily funded by Legal Aid Ontario.³¹ The relationship between CLCs and Legal Aid Ontario is governed by a Funding Agreement, which is comprised of a Memorandum of Understanding,³² and other policies including the LAO-Clinic Consultation Policy,³³ and a Dispute Resolution

²⁷ *Paralegal Regulation Resources*, *supra* Note 5.

²⁸ Frederick H. Zemans, *The Community Legal Clinic Quality Assurance Program: An Innovative Experience in Quality Assurance in Legal Aid*, 33:2 UBC LAW REVIEW 243-283, 249 (2000), http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1745&context=scholarly_works.

²⁹ *About Us*, ONTARIO PROJECT FOR INTERCLINIC COMMUNITY ORGANIZING, <https://opicco.org/about/>.

³⁰ Interview with Michele Leering of the Community Advocacy and Legal Center in Toronto, ON on July 6, 2016.

³¹ *Legal Aid Services Act, 1998*, *supra* Note 20, Section 34(1).

³² *LAO-Clinic Memorandum of Understanding*, ASSOCIATION OF COMMUNITY LEGAL CLINICS OF ONTARIO (2018), http://www.aclco.org/LAO-Clinic_MOU.html.

Policy.³⁴ Legal Aid Ontario, in turn, receives the majority of its funding from the government of Ontario, along with contributions from the Law Foundation of Ontario as required by law.³⁵ The Law Foundation of Ontario is a statutory body established under the Law Society Act to maintain a fund for legal aid, legal education, law libraries and class action proceedings.³⁶ Interest on mixed trust accounts held by lawyers and paralegals is by law held in a separate account which is held in trust by the foundation.³⁷ A more recent source of revenue for the foundation are cy-près awards which are monetary awards by courts, of class action proceeds that cannot practically be distributed towards every individual plaintiff.³⁸

Practitioner Perspectives on Community Paralegals

General observations about the law in practice

The arguments in favor of the need for independent CLWs began when CLCs were first formed. It was felt by some that the problems addressed at these CLCs might be better handled by non-lawyers, who were able to provide legal services under lawyer supervision. CLWs would be embedded in local communities, were often from the communities the CLC served, and would be best placed to undertake community organizing activities.

The exemption from the unauthorized practice restrictions under By-Law 4 and formal recognition of CLWs as a job class funded by the Ontario Legal Aid Plan were significant developments for CLWs. This allowed clinics to provide a more legally empowering service, cost-effective operations, stronger connections to communities that were suspicious of lawyers. The subsequent Law Society initiative to recognize paralegals was also seen as an important development by some CLWs because their professionalism was recognized. However, other CLWs did not want to be licensees of the Law Society because they felt it restricted their community development activities, and subjected them to a narrowly circumscribed code of professional conduct that would compromise their grassroots work.

While the recognition of paralegals seemed well-intentioned and to work well, there are still a number of problems with how it has been implemented. Certified training programs run by community colleges for paralegals are designed for conventional forms of legal practice, rather than for the “poverty law” work of CLCs. Not all of the training programs are producing graduates with the right competencies for practice. Furthermore, several CLCs are concerned that the paralegal professional and licensing standards are not stringent enough.³⁹ Despite the recent move to license and regulate paralegals, CLCs have maintained their staunch support for By-Law 4 and the exemption it creates for CLWs because it gives CLWs more independence. The Association of

³³ *LAO-Clinic Consultation Policy*, ASSOCIATION OF COMMUNITY LEGAL CLINICS OF ONTARIO, (2018), http://www.aclco.org/LAO-Clinic_Consultation_Policy.html.

³⁴ *LAO-Clinic Dispute Resolution Policy*, ASSOCIATION OF COMMUNITY LEGAL CLINICS OF ONTARIO, (2018), http://www.aclco.org/LAO-Clinic_Dispute_Resolution_Policy.html.

³⁵ *How is Legal Aid Ontario funded?*, LEGAL AID ONTARIO, (2017), http://www.legalaid.on.ca/en/about/fact_funding.asp.

³⁶ *Law Society Act*, R.S.O. 1990, c. L.8 at s. 55.

³⁷ *Id.*, at s.57.

³⁸ *Our Revenue Sources*, THE LAW FOUNDATION OF ONTARIO, (2018), <http://www.lawfoundation.on.ca/our-revenue-sources/>.

³⁹ Interview with Michele M. Leering, *supra* Note 10 (July 2018).

Community Legal Clinics of Ontario, the representative body for most of Ontario's CLCs, communicated this concern to the Law Society Ontario in an April 2013 letter, stressing that the current statutory exception should be maintained as it was critical to ensuring access to justice.⁴⁰

⁴⁰ Gerta Kaigi and Trudy McCormack, *Re: Exemptions Working Group Consultation with Community Legal Clinic Employees*, ASSOCIATION OF COMMUNITY LEGAL CLINICS OF ONTARIO, (April 8, 2013).

ANNEX: The Law (Excerpts)

Legal Aid Services Act (1998)

Purpose

1. The purpose of this Act is to promote access to justice throughout Ontario for low-income individuals by means of,

[...]

(b) encouraging and facilitating flexibility and innovation in the provision of legal aid services, while recognizing the private bar as the foundation for the provision of legal aid services in the areas of criminal law and family law and clinics as the foundation for the provision of legal aid services in the area of clinic law;

(d) providing legal aid services to low-income individual through a corporation that will operate independently from the Government of Ontario but within a framework of accountability to the Government of Ontario for the expenditure of public funds. 1998, c. 26, s. 1.

Definitions

2. In this Act,

.....

“clinic” means an independent community organization structured as a corporation without share capital that provides legal aid services to the community it serves on a basis other than fee for service; (“clinique”)

“clinic law” means the areas of law which particularly affect low-income individuals or disadvantaged communities, including legal matters related to,

(a) housing and shelter, income maintenance, social assistance and other similar government programs, and

(b) human rights, health, employment and education; (“domaines de pratique des cliniques”)

“legal aid services” means legal and other services provided under this Act; (“services d’aide juridique”)

“service-provider” means a person, other than a lawyer, who provides legal aid services; (“fournisseur de services”)

Corporation established

3. (1) A corporation without share capital is established under the name Legal Aid Ontario in English and Aide juridique Ontario in French.

[...]

Independent from but accountable to the Ontario government

(4) The Corporation shall be independent from, but accountable to, the Government of Ontario as set out in this Act. 1998, c. 26, s. 3.

...

Corporation to establish system for legal aid services

12. (1) The Corporation shall establish and administer a cost-effective and efficient system for providing high quality legal aid services within the financial resources available to the Corporation.

Corporation to establish priorities, policies

(2) For the purpose of subsection (1), the Corporation shall,

- (a) determine the legal needs of low-income individuals and of disadvantaged communities in Ontario;
- (b) establish priorities for the areas of law, types of cases and types of proceedings for which it will provide legal aid services; and
- (c) establish policies for the kinds of legal aid services to be provided in the different areas of law, types of cases and types of proceedings. 1998, c. 26, s. 12.

Legal aid services to be provided

Specified areas of law

13. (1) The Corporation shall provide legal aid services in the areas of criminal law, family law, clinic law and mental health law.

Other areas of law

(2) Subject to subsection (3), the Corporation may provide legal aid services in areas of civil law not referred to in subsection (1).

Corporation not to provide services in specified areas

(3) The Corporation shall not provide legal aid services,

- (a) in proceedings wholly or partly in respect of a defamation;
- (b) in relator actions;
- (c) in proceedings for the recovery of a penalty where the proceedings may be taken by any person and the penalty in whole or in part may be payable to the person instituting the proceedings;
- (d) in proceedings relating to any election; or
- (e) in prescribed areas of civil law, for prescribed types of civil cases or for prescribed types of civil proceedings. 1998, c. 26, s. 13.

Methods of providing legal aid services

14. (1) Subject to subsections (2) and (3), the Corporation shall provide legal aid services by any method that it considers appropriate, having regard to the needs of low-income individuals and of disadvantaged communities,

the need to achieve an effective balance among the different methods of providing legal aid services, the costs of providing such services and the Corporation's financial resources, including,

- (a) the authorization of lawyers, by means of certificates, to provide legal aid services to individuals or a group of individuals;
- (a.1) entering into agreements with lawyers, groups of lawyers or law firms under which the lawyer, group or law firm provides legal aid services;
- (b) the authorization of service-providers, by means of certificates, to provide legal aid services other than legal services to individuals or a group of individuals;
- (c) the funding of clinics;
- (d) the establishment and operation of legal aid services staff offices;
- (e) the funding of student legal aid services societies;
- (f) the funding of Aboriginal legal services corporations to provide legal aid services to Aboriginal individuals and communities;
- (g) the provision of duty counsel;
- (h) public legal education;
- (i) assistance to individuals representing themselves, including the provision of summary advice, assistance in preparing documents, information packages or self-help kits;
- (j) the authorization of alternative dispute resolution services. 1998, c. 26, s. 14 (1); 2002, c. 19, s. 1.

Foundation for criminal and family law services

(2) The Corporation shall provide legal aid services in the areas of criminal and family law having regard to the fact that the private bar is the foundation for the provision of legal aid services in those areas. 1998, c. 26, s. 14 (2).

Foundation for clinic law services

(3) The Corporation shall provide legal aid services in the area of clinic law having regard to the fact that clinics are the foundation for the provision of legal aid services in that area. 1998, c. 26, s. 14 (3).

Legal services must be provided by lawyers

(4) Legal services shall only be provided by a lawyer or a person working under the direct supervision of a lawyer. 1998, c. 26, s. 14 (4).

Province divided into areas

15. (1) The Corporation shall designate areas within the province for the purpose of providing legal aid services.

Same

(2) Every part of the province must be in a designated area.

...

Corporation may fund clinic

33 (1) The Corporation may provide funding to a clinic to enable the clinic to provide legal aid services to low-income individuals or disadvantaged communities....

Government funding

Approved budget reviewed for inclusion in estimates

67. (1) The annual budget approved by the Attorney General under section 66 shall be submitted to Treasury Board to be reviewed for inclusion in the estimates of the Ministry of the Attorney General to be recommended to the Legislature. 1998, c. 26, s. 67 (1); 2008, c. 19, Sched. K, s. 2.

Appropriation by Legislature

(2) The money required for the purposes of this Act shall be paid out of such money as is appropriated therefor by the Legislature. 1998, c. 26, s. 67 (2).

[...]

Other sources of funding

68. (1) The Corporation may enter into arrangements, as it considers appropriate, to receive additional funding from any person or organization.

Gifts, bequests, devises

(2) The Corporation may receive gifts, bequests and devises of real or personal property, to hold, use and manage or dispose of in the furtherance of its objects, subject to the terms of any trust affecting the property. 1998, c. 26, s. 68.

...

Quality assurance program

92 (1) The Corporation shall establish a quality assurance program to ensure that it is providing high quality legal aid services in a cost-effective and efficient manner.

Quality assurance audits

(2) For the purpose of subsection (1) and subject to subsection (8), the Corporation may conduct quality assurance audits of the service-providers, clinics, student legal aid services societies or other entities funded by the Corporation that provide legal aid services.

Powers

(3) For the purpose of conducting a quality assurance audit, an employee of the Corporation may enter the office of a service-provider who is providing or has provided legal aid services, or the office of a clinic, student legal aid services society or other entity funded by the Corporation, during normal business hours and on notice to the

service-provider, clinic, society or other entity, and may, despite subsections 37 (3) and (4), review their records with respect to the provision of legal aid services.

Co-operation required

(4) Every student and service-provider, and every employee of a clinic, student legal aid services society or other entity funded by the Corporation shall co-operate with the employee of the Corporation or of the Law Society conducting a quality assurance audit even if that requires the production of information or documents that are privileged or confidential.

...

Regulations

97 (1) Subject to the approval of the Lieutenant Governor in Council, the Corporation may make regulations respecting its administration of the system for providing legal aid services and, without limiting the generality of the foregoing, may make regulations,

[...]

(d) governing the establishment of panels of lawyers and service-providers;

Law Society Act – By-Law 4

Classes of licence

5. There shall be the following classes of licence to provide legal services in Ontario:

1. Class P1.

1. Class P1

Scope of activities

Class P1

Interpretation

6. [...]

Activities authorized

(2) Subject to any terms, conditions, limitations or restrictions imposed on the class of licence or on the licensee and subject to any order made under the Act, a licensee who holds a Class P1 licence is authorized to do any of the following:

1. Give a party advice on his, her or its legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding.
2. Represent a party before,
 - i. in the case of a proceeding in the Small Claims Court, before the Small Claims Court,
 - ii. in the case of a proceeding under the Provincial Offences Act, before the Ontario Court of Justice,

- iii. in the case of a proceeding under the Criminal Code, before a summary conviction court,
 - iv. in the case of a proceeding before a tribunal established under an Act of the Legislature of Ontario or under an Act of Parliament, before the tribunal, and
 - v. in the case of a proceeding before a person dealing with a claim or a matter related to a claim, before the person.
3. Anything mentioned in subsection 1 (7) of the Act, provided the activity is required by the rules of procedure governing a proceeding.
4. Select, draft, complete or revise, or assist in the selection, drafting, completion or revision of, a document for use in a proceeding.
5. Negotiate a party's legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding.
6. Select, draft, complete or revise, or assist in the selection, drafting, completion or revision of, a document that affects a party's legal interests, rights or responsibilities with respect to a proceeding or the subject matter of a proceeding.

...

Providing Class P1 legal services without a licence

30. The following may, without a licence, provide legal services in Ontario that a licensee who holds a class P1 license is authorized to provide

Legal clinics

2. An individual who, other than a Canadian law student or an Ontario paralegal student who,
- i. is employed by a clinic, within the meaning of the *Legal Aid Services Act, 1998*, that is funded by Legal Aid Ontario,
 - ii. provides the legal services through the clinic to the community that the clinic serves and does not otherwise provide legal services, and
 - iii. has professional liability insurance coverage for the provision of the legal services in Ontario that is comparable in coverage and limits to professional liability insurance that is required of a licensee who holds a Class L1 licence.

Law Society of Ontario – Professional Rules of Conduct

Commentary to Chapter 6.1 Supervision – 1.1

A lawyer may permit a non-lawyer to perform tasks assigned and supervised by the lawyer as long as the lawyer maintains a direct relationship with the client or, if the lawyer is in a community legal clinic funded by Legal Aid Ontario, as long as the lawyer maintains a direct supervisory relationship with each client's case in

accordance with the supervision requirements of Legal Aid Ontario and assumes full professional responsibility for the work.

Memorandum of Understanding Between Legal Aid Ontario and the Ministry of the Attorney General (2014)

1. Purpose of the Memorandum of Understanding

- a) Clarify the independent nature of Legal Aid Ontario, which has a statutory mandate to provide high quality legal aid services to low-income individuals throughout Ontario, operating independently from the Government of Ontario but within a framework of accountability to the Government of Ontario for the expenditure of public funds;
 - b) Clarify the reason, which has its roots in the adversarial nature of Canada's legal system, why Legal Aid Ontario must operate independently from the Ministry of the Attorney General, which has responsibility for the prosecution service in the province of Ontario;
- [...]

This MOU shall not affect or interfere with the LAO's sole authority for decision respecting the entitlements of individuals to legal aid. The Ministry is responsible for the administration of justice in Ontario. In particular, the Ministry is responsible for conducting criminal proceedings throughout Ontario and providing legal advice to, and conducting litigation on behalf of, all government ministries and many agencies, boards and tribunals. For this reason, the government should not be involved in personal decisions respecting the entitlements of individuals to legal aid or the manner in which Legal Aid Ontario plans and administers the legal aid system and provides legal aid services, other than as provided for in LASA or in regulations made pursuant to LASA.

...

3. Legal Authority and Mandate

1. Legal Authority

...

- d. The Corporation is independent, both from the Ministry and from the Law Society of Upper Canada.

LAO – Clinic -Clinic Memorandum of Understanding (March 1st, 2002)

3. For the purposes of this Memorandum of Understanding and the attached Funding Agreement, Consultation Policy and Dispute Resolution Policy,

[...]

- (b) "clinic" means an independent community organization structured as a corporation without share capital that provides legal aid services to the community it serves on a basis other than fee for service and includes the Board of that clinic;

(d) “clinic law” means the areas of law which particularly affect low-income individuals or disadvantaged communities, including, legal matters related, to

- i. housing and shelter, income maintenance, social assistance and other similar government programs, and
- ii. human rights, health, employment and education.

(f) “clinic law services” means legal and other services provided under the Act, in clinic law areas, and includes legal representation and advice, community development and organizing, law reform, and public legal education

...

10. Pursuant to the *Legal Aid Services Act, 1998*, LAO and the Board of Directors of the Clinic have a responsibility to ensure that clinic law services are delivered to low-income individuals have a responsibility to ensure that clinic law services are delivered to low-income individuals and have disadvantaged communities in Ontario. The Board of Directors of the clinic agrees to:

...

- j) provide LAO with an annual report(s) including audited financial statements, a summary of legal services provided for the year, a summary of complaints received by the clinic and any other information relating to the operation of the clinic, as requested by LAO;
- k) ensure that the Clinic co-operates on a reasonable basis with the local area office and area director, including maintaining a knowledge of the legal aid services provided by the local area office and working with the local area office towards providing the fullest and most complementary range of legal aid services;