



Bright Lights Injured Workers' Group
c/o Injured Workers Community Legal
Clinic
411-815 Danforth Ave.
Toronto, ON M4J 1I2

5 March 2020

Hon. Doug Downey, Attorney General
720 Bay St., 11th Floor
Toronto, ON
M7A 2S9

Dear Attorney General:

Re: Concerns about changes to legal clinics in Bill 161

We are a group of workers who have suffered injuries on the job, and who have been meeting regularly since 1994. We come together every month to discuss and take action on critical issues facing injured workers, and to provide each other with peer support as we go through the workers' compensation system. We are a member group of the Ontario Network of Injured Workers' Groups (ONIWG), and proud supporters of the Workers' Comp Is A Right campaign.

Today we met and reviewed the proposed changes to legal aid in Bill 161. We have all been assisted by community legal aid clinics at various times in our life and we are concerned about some of the changes you are making. Here are the concerns we discussed today:

Will community legal clinics be closed down in 6 months?

Schedule 15 s.72.3 of the Bill says that 6 months after the new law is in force all community legal clinic funding agreements are terminated. Legal Aid Ontario "may" enter into new funding agreements with clinics during the 6 months. This is a very short time for LAO to negotiate new agreements with 72 community legal clinics. Clinics are at a great disadvantage because they are automatically closed down if they do not accept LAO's terms or if LAO does not offer an agreement.

There needs to be a process for mediation where no new agreement has been reached within the 6 months or else clinics will be closed down arbitrarily.

Will there be Access to Justice? Will there be legal aid?

The current Legal Aid Services Act says in s.1 “The purpose of this Act is to promote access to justice throughout Ontario for low-income individuals...”

The existing Legal Aid Services Act says in s.13 “The Corporation shall provide legal aid services in the areas of criminal law, family law, clinic law and mental health law.”

The Bill says “The purpose of this Act is to facilitate the establishment of a flexible and sustainable legal aid system that provides effective and high-quality legal aid services throughout Ontario in a client-focused and accountable manner while ensuring value for money.”

In s.4 the Bill says “The Corporation may, subject to the regulations, provide legal aid services.

Why does is the government removing providing “access to justice for low-income individuals’ from the law? Why is the government changing ‘shall provide legal aid’ to “may provide”?

Will the government charge fees for legal aid to poor people?

In s.2 of the existing law, a legal clinic is defined as an independent community organization that “provides legal aid services to the community it serves on a basis other than fee for service.”

In s.5 of the proposed law a legal clinic is defined as s a community legal organization whose members of its board of directors are members of the community it serves.

Why is the government removing the requirement that legal clinics do not operate on a fee for service basis?

Section 13 of Bill 161 says that if someone recovers any money in a matter for which he or she received legal aid services, the cost of the legal aid services shall be deducted and paid to Legal Aid Ontario.

Why bring fee for service into legal aid when only the very poor are eligible? Is the government changing the system so that it can charge poor people for legal aid services? If a legal clinic helps someone get social assistance or workers compensation, does the person have to give the money to Legal Aid?

Loss of community control?

The current legislation provides that the board of directors of a clinic “shall determine the legal needs of the individual communities served or to be served by the clinic and shall ensure that

the clinic provides legal aid services in the area of clinic law in accordance with those needs.”
(s.39(2))

Under Bill 161, Legal Aid Ontario determines the legal needs of individuals and communities in Ontario for legal aid services (Sched 16, s.6). They only need to “have regard” for the community determination of its legal needs. This reduces the role of the community in determining local needs. The legal problems of many clinic clients arise from decisions made by government agencies and Bill 161 ignores the conflict of interest people will see when LAO, a government agency, determines their need to contest the decisions of other government agencies.

LAO is Judge, Jury and Executioner: No Appeal for Clinic Funding Decisions

Section 35 of Bill 161 provides that every decision of Legal Aid is final and not subject to review. We recently saw the importance of a review process when Legal Aid Ontario staff cut some legal clinic budgets by 25% and more. The clinics exercised their right to a review by Legal Aid Ontario’s Clinic Committee and the committee decided the cuts should be reduced to 10%. The right to an appeal or review process is an important principle in our justice system. A community legal clinic should be able to apply for a review of a funding decision that has a direct impact on the clinic’s ability to provide legal aid services.

Sincerely,
The Bright Lights Injured Worker Group,

John Walwyn

Don

Joseph M. M. M. M.

Janina Kendera

Willie

Clifton Damall

CC:

Gurritan Singh, NDP Attorney General Critic
Room 156
Main Legislative Building, Queen's Park
Toronto, ON M7A 1A5

Ontario Liberal Attorney General Critic
Main Legislative Building, Queen's Park
Toronto, ON M7A 1A5