

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

This is a clinic certificate under the *Ontario Legal Aid Act* and Regulations, providing for the payment of funds to the clinic by the Ontario Legal Aid Plan for the fiscal year ending March 31, 1998.

GENERAL TERMS AND CONDITIONS

I. BOARD OF DIRECTORS

1. a. The clinic shall be under the direction of a Board of Directors which includes persons belonging to the community which the clinic serves.
 - b. The Board of Directors shall notify the Clinic Funding Committee of any change in the composition or members of the Board of Directors of the clinic as set out in the application for funding. The clinic shall provide such notice in writing within fourteen days after the adoption of such changes by the Board of Directors or the resignation of any member of the Board of Directors.
 - c. Where a clinic has a Legal Advisory Committee or an Executive Committee, the Board of Directors shall notify the Clinic Funding Committee of any change in the composition or members of its Legal Committee (or its equivalent) or Executive Committee as set out in the application for funding. The clinic shall provide such notice in writing within fourteen days after the adoption of such changes or the resignation of any member of the Legal Committee (or its equivalent) or the Executive Committee.
2. a. Where a clinic is incorporated, the Board of Directors shall file a copy of the clinic's letters patent and bylaw(s) with the Clinic Funding Committee within fourteen days after the effective date of incorporation, and thereafter the Board of Directors shall provide notice in writing to the Clinic Funding Committee of any changes or amendments in the letters patent or bylaws within fourteen days after the adoption of such changes or amendments.
 - b. Where a clinic is not incorporated, the Board of Directors shall file a copy of the clinic's constitution and bylaw(s) with the Clinic Funding Committee within fourteen days after the date of adoption of the constitution and bylaws, and thereafter the Board of Directors shall provide notice in writing to the Clinic Funding Committee of any changes or amendments to the constitution or bylaws within fourteen days after the adoption of such changes or amendments.

3. The Board of Directors shall maintain conflict of interest guidelines for members of the Board of Directors, approved by the Clinic Funding Committee, and the clinic shall provide notice in writing to the Clinic Funding Committee of any changes or amendments to conflict of interest guidelines within fourteen days after the adoption of such changes or amendments by the Board of Directors.
4. The Board of Directors of the clinic shall meet regularly and shall record its decisions in writing in a Minute Book which shall be available to all members of the Board of Directors.
5. The Board of Directors shall nominate a Treasurer of the Board of Directors who shall not be the clinic's bookkeeper, and who shall have responsibilities assigned by the Board, and including:
 - a. the presentation of a financial report to the Board of Directors at each Board meeting;
 - b. the responsibility for ensuring the books and ledgers of the clinic, including the bank balance, are reconciled with each financial report to the Board of Directors and to the Clinic Funding Committee;
 - c. the certification of the financial reports submitted to the Clinic Funding Committee.

II. SERVICES OF THE CLINIC

1. The clinic shall provide legal services or paralegal services or both, including activities reasonably designed to encourage access to such services, or to further such services, and services designed solely to promote the legal welfare of the community which it serves, on a basis other than fee for service.
2. The clinic shall maintain all legal services at a high standard of quality, and may participate in training programs conducted by clinics, by the Ontario Legal Aid Plan, or by other organizations to achieve this end.
3.
 - a. The staff lawyer or lawyers shall be responsible for the quality of legal and paralegal services in any clinic in which a staff lawyer or lawyers is employed.
 - b. The Board of Directors shall ensure that the staff of the clinic implement a system of supervision, approved by the Clinic Funding Committee. The Board of Directors shall ensure that no

changes to the supervision system shall take effect until approved by the Clinic Funding Committee.

- c. The supervision procedures adopted by the Board of Directors shall include at least the following provisions:
 - (i) the lawyer reviews on a weekly basis all intake and summary sheets;
 - (ii) the lawyer reviews all files before they are closed;
 - (iii) the lawyer reviews all open clinic files on a regular and periodic basis;
 - (iv) the lawyer is available for one-to-one case discussions, such as weekly case conferences.
 - (v) the Board of Directors must ensure that where legal advice is being given, or legal representation is undertaken, in cases where the client could not be represented by an agent, the advice is given, the representation is undertaken, and the community legal workers are supervised by a staff lawyer in a manner similar to a traditional legal practice.
- 4. The clinic shall have a tickler system, approved by the Clinic Funding Committee, which complies with the requirements of the Law Society of Upper Canada. The clinic shall ensure that no changes to the tickler system shall take effect until approved by the Clinic Funding Committee.
- 5.
 - a. The Board of Directors shall maintain financial eligibility guidelines, including asset eligibility guidelines, to be applied to all clients who require legal assistance other than summary advice, by the staff of the clinic, which guidelines shall be consistent with the financial eligibility policy of the Committee. The guidelines shall include procedures for the monitoring of staff discretion in the implementation of the guidelines.
 - b. The Board of Directors shall maintain appropriate guidelines directing its staff to collect legal disbursements from clients

whenever possible and, in particular, from group clients of the clinic.

- c. The Board of Directors shall notify the Clinic Funding Committee of any change in the financial eligibility guidelines or recovery of legal disbursements as set out in the application for funding. The Board of Directors shall provide such notice in writing within fourteen days after the Board's decision to alter the guidelines.
6. The Board of Directors shall ensure that its staff maintains a client trust account in accordance with the requirements of the Law Society of Upper Canada, and that its staff complies with the requirements of the LSUC with respect to client property held in trust by the clinic.

III. USE OF FUNDS

1.
 - a. The Ontario Legal Aid Plan shall pay funds to the clinic for the purpose of carrying out legal services or paralegal services, or both, as defined by R.R.O.1990, Regulation 710 (s.5.(2)).
 - b. The Ontario Legal Aid Plan may pay funds to the clinic to be used solely for the payment of legal disbursements and for no other purpose, and such funds shall be placed in a separate account.
 - c. The Ontario Legal Aid Plan may pay funds to the clinic to be used for other designated purposes, and may, in the discretion of the Clinic Funding Committee, pay such funds to the clinic on terms and conditions as determined by the Committee, in its discretion.
2.
 - a. All client reimbursements to the clinic, in relation to legal disbursements paid on behalf of clients out of the legal disbursements account, shall be deposited to the legal disbursements account of the clinic.
 - b. All client donations, other than those received for the purpose of legal disbursements, shall be reported to the Clinic Funding Committee in quarterly financial reports.
3. The Board of Directors shall not obtain any funds by way of a loan from a bank, trust company, lending institution, or any other source, without prior written approval from the Clinic Funding Committee.

4. Funds designated for the following items shall not be used for any purpose other than that designated, in the absence of express approval of the Clinic Funding Committee:

Legal Disbursements
Bookkeeping

5. a. The Board of Directors shall ensure that its financial records and procedures conform to generally accepted practices for ensuring the clinic's accountability for the use of public funds.
- b. The Board of Directors shall permit an auditor working on behalf of the Ontario Legal Aid Plan to perform a full audit each year, to include:
- (i) An examination of the records of accounts, including vouchers for payments and receipts, to verify that all income and expenditures are properly supported.
 - (ii) A verification that funds approved by the Clinic Funding Committee for specific purchases were used for the purposes specified.
 - (iii) A verification by physical examination of the existence of fixed assets acquired with funds approved by the Clinic Funding Committee.
 - (iv) An examination of the clinic constitution and bylaws, and of policies and directives established by the minutes of the Board of Directors in matters relating to, and only to, financial management of the clinic, client financial eligibility, and client or client group contributions to disbursements.
6. Interest income earned by the clinic on OLAP funds shall not be used by the clinic without express approval from the Clinic Funding Committee.

7. All OLAP funds and interest on OLAP funds shall be deposited to a bank account or accounts on the clinic separate from any account into which other source funds of the clinic are deposited.
8.
 - a. Ownership of all capital assets purchased by the clinic out of approved funding of the Ontario Legal Aid Plan vests in the Law Society of Upper Canada.
 - b. Capital assets shall include library purchases but, where other source funds have been utilized to purchase library books, the assets of the Ontario Legal Aid Plan shall be pro-rated in accordance with the ratio of its contribution.
9.
 - a. The Board of Directors shall make every effort to maintain staff at the clinic equivalent to the number of approved full-time staff positions for which funding has been provided by the Ontario Legal Aid Plan.
 - b. The Board of Directors shall report to the clinic funding staff any staffing arrangements approved by the Board of Directors which are not equivalent to the approved full-time staff positions for which funding has been provided by the Ontario Legal Aid Plan.
 - c. Personnel funds accumulated during the fiscal year by reason of staff turnover, gaps in hiring staff, or leaves of absence, may be expended for the employment of temporary replacement staff or part-time staff, but shall not be expended for any other purpose without the approval of the clinic funding staff. Such personnel funds not expended shall be held by the clinic as surplus funds to March 31, 1998.
10.
 - a. The Board of Directors may retain up to \$3,500 in surplus funds held at year-end, as an operating contingency for the subsequent fiscal year.
 - b. The Board of Directors may retain surplus funds, in excess of \$3,500, in an amount approved by the clinic funding staff, for such purposes as may be agreed by the Board of Directors and the clinic funding staff.

- c. Surplus funds held by the Board of Directors at year-end, in excess of those amounts which may be retained pursuant to the above provisions, shall be reallocated to the clinic's allocation for the following fiscal year.

IV. REPORTING REQUIREMENTS

- I. a. The Board of Directors shall submit quarterly financial reports during the fiscal year to the Clinic Funding Committee, on the form provided, setting out in detail the expenditure of funds paid pursuant to this certificate:
 - (i) on or before July 31, October 31, January 31, and April 30 with respect to the previous three calendar months in each case; or
 - (ii) at such more frequent intervals as the Clinic Funding Committee may require.
- b. Each quarterly financial report shall be certified by:
 - (i) the Treasurer of the Board, in the following form:

"On behalf of the Board of Directors, I certify that I have examined the records of the clinic and, to the best of my knowledge, the information contained in this financial report accurately reflects the clinic's records and bank accounts";
 - (ii) the Chairperson of the Board, in the following form:

"On behalf of the Board of Directors, I certify that the clinic has complied with the terms and conditions of the clinic certificate dated April 1, 1997".
- c. The Board of Directors shall submit, as part of each quarterly financial report submitted to the Clinic Funding Committee, the following information, in a form required by the Committee:

- (i) a bank reconciliation (including bank statements) for each reporting period;
 - (ii) a reconciliation between OLAP funds on hand and the clinic's records for each bank account for each reporting period;
 - (iii) a statement of all interest earned for the reporting period, and year to date;
 - (iv) a photocopy of the certificate relating to any term deposit of the clinic;
 - (v) a statement of income from other sources for the reporting period and year to date;
 - (vi) any other financial statements as may reasonably be required by the Clinic Funding Committee in the circumstances.
- d. Where a Board of Directors fails to submit a financial report in accordance with the requirements of this section, the Committee may forthwith notify the clinic, with reasons, that the Committee will conduct a hearing within 14 days pursuant to s.11 of the clinic funding Regulation, for the purpose of determining whether the clinic has breached a term and condition of the clinic certificate. In any such case, the Committee may direct that any cheque payable to the clinic by the Plan be issued to the Committee in trust for the clinic pending the Committee's determination in accordance with the Regulation.
2. a. The Board of Directors shall submit quarterly statistics reports to the Clinic Funding Committee, in a form approved by the Committee, on or before April 30, July 31, October 31 and January 31 each with respect to the clinic's services during the three previous calendar months, and on a cumulative calendar year-to-date basis.
3. a. Upon request of the Committee, the clinic shall give members of the Committee, members of the staff, and agents of the Committee, or any of them, access to the premises of the clinic at any reasonable time, and to all books, accounts, financial

records, reports, files, papers and things for the purpose of verifying a report to the Committee by a clinic in respect of the use of funds. The clinic may withhold any of them that is confidential to any person to whom the clinic has been, or is, providing a service, unless the person consents to its disclosure, or unless the information pertains to the financial eligibility of the person to receive the services of the clinic. The failure of a clinic to provide such information, except any information that is confidential, shall be deemed to be a contravention of a condition of this certificate.

- b. In exercising its powers pursuant to the above sub-section, the Clinic Funding Committee shall comply with its Policy and Procedures on Reporting by Clinics.

V. APPLICATIONS FOR FUNDS 1998/99

1. Where a clinic wishes to submit an estimate of expenditures for the next fiscal year, it shall be submitted by the clinic by November 28, 1997.
2. With respect to its application for the renewal of funding, the clinic shall provide the following information, in accordance with the requirements of the Clinic Funding Committee, by January 30, 1998:
 - a. A report on the past year's expenditures and a budget request for the next fiscal year.
 - b. Statistics for the past year's activities, and a descriptive report of the clinic and its activities.

VI. SUPPLEMENTARY FUNDING OR SPECIAL FUNDING REQUESTS

Requests for supplementary funding or special funding shall be submitted in the form required by the Clinic Funding Committee.

VII. COMPLAINTS

1. A clinic shall provide to the Clinic Funding Committee, upon request, any information relating to any complaint regarding the clinic, whether made by a person provided with services by the clinic, or by a person affected by the services provided by the clinic. The clinic may withhold any information that is confidential to any person to whom the clinic has been, or is, providing a service, unless the person consents to its disclosure, or unless the information pertains to the financial eligibility of the person to receive the services of the

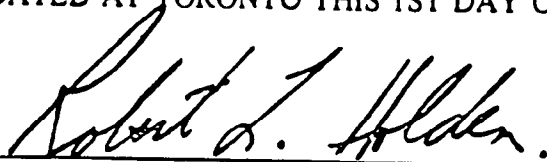
clinic. The failure of a clinic to provide such information, except any information that is confidential, shall be deemed to be a contravention of a condition of this certificate.

2. In exercising its powers pursuant to the above subsection, the Clinic Funding Committee shall comply with its Policy and Procedures on Complaints.
3. The Board of Directors shall maintain a statement of the clinic's procedures for investigating complaints, in accordance with the Clinic Funding Committee's Policies and Procedures on Complaints, and shall notify the Clinic Funding Committee of any change in such procedures within 14 days after such change takes effect.

VIII. BREACH OF CONDITIONS

1. Where there is an allegation that the clinic has failed to abide by, or has contravened, a condition of this certificate, the Clinic Funding Committee shall investigate, or direct its staff to investigate, the allegation. The Committee shall not make a finding in respect of any such allegation until it has given notice to the clinic with written reasons, and has provided an opportunity for the clinic to be heard by the Committee. Where the Committee finds that a clinic is in breach of a condition, it may notify the Director of the Ontario Legal Aid Plan and, upon receiving such a report, the Director shall revoke the certificate.
2. In exercising its powers pursuant to the above subsection, the Clinic Funding Committee shall comply with its Policy and Procedures on Appeals, References and Hearings.

DATED AT TORONTO THIS 1ST DAY OF APRIL, 1997



Robert L. Holden,
Provincial Director,
The Ontario Legal Aid Plan.

The Board of Directors passed a resolution accepting the certificate at a meeting on

MARCH 5, 1998

Jud Serna
Chairperson, PRESIDENT
Board of Directors.

Date: 5 March 1998