

B3: Better Billing Bulletin

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***Legal Aid Online* portal maintenance**

On December 15, Legal Aid Ontario completed major work to the financial systems that support *Legal Aid Online*. This system maintenance will help us provide a more stable billing platform for panel lawyers and staff while offering a more reliable platform for future development.

With the maintenance came a few changes to how you access *Legal Aid Online* and the tools within it.

Discontinued support for Internet Explorer 6 and 7

Support for Internet Explorer versions 6 and 7 has been dropped, but we now officially support all recent versions of Firefox, Chrome and Safari. Information about *Legal Aid Online*'s new system requirements can be found on our technical requirements page.

Updated *Legal Aid Online* links

As part of the upgrade, changes were made that might have required you to update your bookmarks, and in some situations, clear the browser cache. If you're still having trouble accessing *Legal Aid Online*, try the following steps to get everything working again:

1. Remove all your *Legal Aid Online* bookmarks or favorites
2. Clear your browser cache
3. Restart your web browser
4. Type in the URL <https://www.legalaidonline.on.ca> (and write down this URL, for future reference)

'Shrink to fit' printing

If you find that what is being printed is incredibly small, you may also need to reset the

printing options in your browser to remove the “shrink to fit” or similar setting. Try using the print buttons and links for generating a printer-friendly version.

Changes to the declaration for private retainers

Recently, we changed the wording of the declarations for the certificate acknowledgement and for account submission regarding private retainers. This change created one consistent declaration for both the acknowledgement and the account submission.

The purpose of the new declaration is to clarify when it is required in order to protect vulnerable clients and to ensure compliance with our regulatory requirements. Specifically, the new wording clarifies that a declaration of a private retainer is required:

- regardless of whether or not funds were received (i.e. pro bono),
- for private funds received for all related and ancillary matters covered by the certificate,
- for funds received before and after the certificate effective date,
- for funds received whether services are completed or ongoing,
- for any funds received from any and all sources paid to the lawyer or to an associate or agent of the lawyer
 - This does not include a private retainer to another previously retained lawyer who is not an associate or agent of the lawyer who acknowledges the legal aid certificate.

The existence of a private retainer is a factor that determines a client’s financial eligibility. It is also taken into consideration in the settlement of an account to compare the services provided under the private retainer against with the services authorized under the certificate.

Questions & Answers

Q: I am retained on a CFSA certificate and my client wants to change the venue of the proceedings to where she now lives. The client’s father has paid me \$2,500.00 for this application. None of the funds came from the client herself and the motion to change venue is not authorized on the certificate - do I have to declare this private retainer?

A: Yes. The funds, although received from a third party, the client’s father, must be declared as you were retained to perform services for the client that are related to, even though not specifically authorized on, a legal aid certificate.

Q: My client paid \$2000.00 for services relating to his refugee matter. I have deposited these funds in trust. I prepared a retainer agreement which was not signed, however due to timelines I started to prepare the BOC. Unbeknownst to me the client applied for and was granted a 'Contribution-free' BOC legal aid certificate and has noted me as his lawyer of choice. I am uncertain if the client advised LAO of the \$2000. I do not intend to bill LAO for any services conducted for services covered by the private retainer. Must I declare the \$2000?

A: It is up to you as to whether you wish to accept a legal aid certificate, but if you do you must declare the private retainer and you must hold the funds in trust for the benefit of Legal Aid Ontario. LAO will determine both the client's eligibility and whether any of these funds relate to the services authorized on the certificate and whether there ought to be a set off against the cost of Legal Aid services.

Q: I have received a private retainer to provide a merit assessment on a judicial review of an IRB matter. It is my understanding that LAO no longer provides coverage for merit opinions on these matters. If this is correct do I have to disclose the private retainer?

A: Yes. If there has been a private retainer for preparing a merit assessment, the private retainer must be disclosed if a certificate for JR is issued. Legal Aid does provide coverage for merit assessments in circumstances where a certificate is granted based on the positive merit assessment, and there has not been a private retainer received by counsel.

Q: I am retained on a Criminal Certificate and the matter is complete. The client instructed me to bring a bail review. The client's friends and family were able to scrape together \$1700 for me to do the bail review and the client was released. I did not request that LAO fund the bail review. The funds did not come from the client and the bail review was not specifically authorized on the certificate. Must I declare the private retainer?

A: Yes. The funds must be declared. You were retained to perform services for the client that were ancillary to the services authorized on the certificate, even though a bail review was not specifically authorized by LAO. LAO will require you to provide a copy of your private account for the bail review and will determine whether any of the private funds ought to be set off against the cost of Legal Aid services.

Q: I am a junior lawyer in a firm. One of the senior lawyers has been privately retained by a client who subsequently received a legal aid certificate. The senior lawyer does not want to acknowledge the certificate because he does not want to declare the private money. The senior lawyer will continue to represent the client on the certificate. He says that he will bill me as his agent and asks me to bill LAO and submit his agency accounts. Do I need to declare the private money that was paid to the senior lawyer?

A: Yes. You are being asked to acknowledge a certificate for the purpose of avoiding declaring a prior private retainer to LAO. The senior lawyer is your proposed agent on the certificate. He had been privately retained to provide services to the client authorized on the certificate. This must be declared.

Q: I have been approached to represent a client on a contribution-free legal aid certificate. The client previously retained a lawyer privately. I know the other lawyer and will write to obtain the file but this lawyer is not related to me in practice and I do not know what services were performed and exactly how much was paid privately. Do I need to declare the private retainer by that other lawyer?

A: No. The former lawyer is not your associate or agent. You are not expected to inquire as to the nature and extent of the former lawyer's private retainer. You may answer 'No' to the question as to whether you or any associate or agent was retained privately.

Staying up to date

We'll continue to notify you in advance of any impacts to Legal Aid Online by email, on Twitter and through messages posted on *Legal Aid Online's* login screen. Have an issue with something? The Lawyer Service Centre is available to answer your questions from Monday to Friday, 8 a.m. to 5 p.m.

Lawyer Service Centre

Telephone: 416 979-9934

Toll-free: 1-866-979-9934

Fax: 416 979-7326

Email: pl-lsc@lao.on.ca

Questions?

Please let us know if you have questions or if there are topics you'd like to see us cover by contacting the Lawyer Service Centre at pl-lsc@lao.on.ca



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