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August 17, 2009

*Via Electronic Mail ([Part34HIVcomments@cdc.gov](mailto:Part34HIVcomments@cdc.gov))*

Division of Global Migration and Quarantine  
Centers for Disease Control and Prevention  
U.S. Department of Health and Human Services  
Attn: Part 34 NPRM Comments  
1600 Clifton Road, NE, MS E-03  
Atlanta, Georgia 30333

*Re: Docket No. CDC-2008-0001 – Removal of HIV Immigration Ban*

To Whom It May Concern:

The American Bar Association (ABA) supports the proposed revision of 42 CFR Part 34 to remove “Human Immunodeficiency Virus (HIV) infection” from the definition of “communicable disease of public health significance,” and to remove references to “HIV” from the scope of examinations in the relevant regulations. Under current regulations, aliens infected with a “communicable disease of public health significance” remain inadmissible into the United States despite recent legislative changes to the Immigration and Nationality Act (INA), because HHS/CDC regulations continue to mandate that applicants for immigration status be tested for HIV as part of the immigration process.

Since 1989, the ABA has supported the removal of HIV status as a bar for immigrant visitors, asylees, and refugees. Last year, the Tom Lantos and Henry J. Hyde United States Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act repealed the 1993 statutory change to the Immigration and Nationality Act (INA) which denied entry or immigration to the United States for individuals with HIV infection. This action demonstrated Congress’ clear intent to ensure equality in the U.S. immigration process for individuals with HIV/AIDS. The removal of the HIV travel and immigration ban will bring the United States in line with the global community, and reinforce the U.S. commitment to fighting the HIV pandemic. All that remains to fully expunge this vestige of stigma and discrimination against people with HIV or AIDS from U.S. law is to remove it from HHS/CDC regulations.

The ABA, the national representative of the legal profession with more than 400,000 members worldwide, opposes discrimination against non-immigrant visitors, asylees, and refugees that is based solely on their HIV status. More than 200 other organizations, including the American Medical Association, the World Health Organization, and the

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American Public Health Association, also have long opposed the ban. Dr. Mark Kline, head of retrovirology at Baylor College of Medicine and director of the school's AIDS International Training and Research Program, expressed the rationale against the ban succinctly when he said, "[t]here is no scientific basis whatsoever for the [HIV] travel ban, and there never has been." (*Kaiser Daily HIV/AIDS Report*, Mar. 25, 2008.)

The current restriction on HIV-positive immigrants and travelers is discriminatory and inappropriate given current medical knowledge about HIV/AIDS transmission and infection. The exclusion of individuals with HIV/AIDS serves no reasonable medical purpose and overly restricts the ability of individuals to come to the United States who can make positive contributions to our culture and economy. The HIV ban has not only perpetuated the stigmatization of people living with HIV/AIDS, it has also contravened the right of many immigrants and visitors to equal treatment under the law, and interfered with thousands of individuals' personal privacy. Moreover, the ban has put an unnecessary burden on refugees fleeing persecution, and the organizations working to assist them.

The HHS/CDC has clearly and carefully considered the impact of this change, and the ABA supports a final rule that would remove HIV infection from the definition of "communicable disease of public health significance" and remove references to HIV from the scope of examinations in its regulations.

Thank you for considering the ABA's views on this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas M. Susman", with a long horizontal flourish extending to the right.

Thomas M. Susman