amfAR
AIDS RESEARCH

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Division of Global Migration and Quarantine
Centers for Disease Control and Prevention
U.S. Department of Health and Human Services
Attn: 42 CFR Part 34 NPRM Comments
1600 Clifton Road, NE., MS E-03
Atlanta, GA 30333

Docket ID: CDC-2008-0001
Docket Title: Medical Examination of Aliens – Removal of Human Immunodeficiency Virus (HIV) Infection from Definition of Communicable Disease of Public Health Significance
RIN: 0920-AA26

To Whom It May Concern:

amfAR, The Foundation for AIDS Research, is one of the world's leading nonprofit organizations dedicated to the support of AIDS research, HIV prevention, treatment education, and the advocacy of sound AIDS-related public policy.

amfAR, the Foundation for AIDS Research, urges swift implementation of the proposed rule that will lift the travel and immigration ban to the United States for immigrants and visitors living with HIV. amfAR supports the U.S. Department of Health and Human Services revision of the Part 34 regulation to remove human immunodeficiency virus (HIV) from the definition and list of "communicable diseases of public health significance" that precludes a person from entering the United States as well as to remove references to HIV from the scope of examinations in its regulations. With this policy change, the United States will finally join other countries in the industrialized world that align policy regarding HIV with the evidence that there is no scientific or public health justification for HIV-related restriction on entry and residence.

Currently, the U.S. is among a short list of nations that maintain the travel and immigration ban, including Armenia, Brunei, Iraq, Libya, Moldova, Oman, Qatar, the Russian Federation, Saudi Arabia, South Korea, and the Sudan. America's global leadership is diminished when our nation has in place a discriminatory ban. Rather than preventing the spread of HIV, the current ban has served as a disincentive for immigrants to get tested, diagnosed, and treated. The ban also undermines efforts to eradicate AIDS by preventing scientific experts and advocates from entering the country and has precluded convening an International AIDS meeting in the United States since 1990.

Scientific and medical knowledge surrounding HIV transmission has evolved significantly over the past 20 years since the current rule's implementation in 1987. While HIV infection remains a serious health condition, the proposed revision acknowledges the progress that has been made including knowledge that has demonstrated that HIV is not spread through casual contact – rather, it is spread through unprotected sex and needle-sharing. Public health officials within the United States acknowledge that there is no public health justification for excluding people with HIV. In the background information for this rule change, HHS acknowledges that immigrants often have better initial health profiles as compared to their U.S. counterparts. When commenting on its own HIV-specific restrictions in 1991, the Centers for Disease Control and Prevention (CDC) stated: "The risk of (or protection from) HIV infection comes not from the nationality of the infected person, but from the specific behaviors that are practiced. As such, the current ban undermines human dignity by violating commonly accepted rights of equal protection, non-discrimination, and freedom of movement – rights which the U.S. defends in the international arena. Restrictions on entry, stay, and residence based on HIV status are discriminatory and can impede effective response to the disease."

The current travel ban has been devastating for individuals wishing to immigrate, seek asylum, visit family members, study, and work in the U.S. Repeated analyses by HHS demonstrate that the ban provides no economic or health benefits to the U.S. or its citizens. In fact, immigrants and tourists significantly add to our economy. While these individuals can be productive members of our society, we currently deny businesses access to these talented workers. Contrary to popular belief, immigrants are more likely to be infected in the U.S. rather than in their home countries.

Furthermore, amfAR recommends the removal of the mandatory HIV testing that accompanies the routine medical examination for lawful permanent resident applicants. Such testing is discriminatory, and immigrants should be allowed entry to the United States if they meet all other criteria. Nevertheless, we recognize the positive aspects of HIV testing as part of routine medical care as proposed by CDC guidelines. We look forward to a day when HIV testing is no longer stigmatized as a component of routine medical examinations both for immigrants and for all Americans.

We also recommend that HHS consider revising the prevailing nomenclature of using "diseases of public health significance" surrounding the immigration and travel ban. While the ban should be lifted, HIV remains a disease of "public health significance," and the semantic implications are unfortunate. HIV is a serious health condition. Another term is needed for a list of diseases that includes tuberculosis and leprosy. This would help HHS better convey that HIV is already a public health problem in the U.S. and therefore travelers and immigrants do not pose a threat of introducing this disease in our country.

In summary, the current regulation banning HIV-positive people from entering the U.S. as visitors or immigrants is outdated, discriminatory, and ineffective. The new regulation will permit scientific knowledge and evidence about HIV/AIDS to guide public policy, permitting the U.S. to join current mainstream international medical and public health practices regarding HIV/AIDS. For these reasons, amfAR strongly urges the Administration to follow through on its commitment to lift the immigration and travel ban on HIV-positive individuals, to remove HIV from the definition of "communicable diseases of public health significance" as well as to

remove "HIV" from the scope of examinations in its regulations, actions that will finally end a policy that has lacked scientific rationale and has diminished our nation's leadership in the fight against HIV/AIDS.

We appreciate your consideration and attention to this request.

Sincerely yours,

amfAR, The Foundation for AIDS Research