



Docket No. CDC-2008-0001
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, Georgia 30333

August 11, 2009

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

The HIV Health and Human Services Planning Council of New York is funded by a grant from the Health Resources and Services Administration (HRSA) and is comprised of physicians, service providers, advocates, and people living with HIV/AIDS (PLWHA). This community planning body makes decisions about the prioritization and allocation of resources for treatment and care of PLWHA in New York City and in Westchester, Rockland, and Putnam Counties north of New York City. The Planning Council strongly supports the implementation of the proposed revision to 42 CFR Part 34 in order to remove Human Immunodeficiency Virus (HIV) from the list of “communicable diseases of public health significance” for several reasons:

- Including HIV among the diseases of public health significance does not make public health sense. International visitors who are HIV-infected may not bring their antiretroviral medications into the country for fear of being detected and denied entry. Stopping medications even for a short period of time increases the chance of developing drug resistance. International visitors who are here and suspect but do not know for sure that they are infected may develop opportunistic infections but delay seeking medical assistance out of fear of being deported. By delaying treatment, they put their own health at risk and may unknowingly put their partners at risk of acquiring the infection. People who come here longer term to work or attend school may not be

diagnosed and enter treatment out of fear of being deported. Thirty-three percent of foreign-born New Yorkers with HIV were simultaneously diagnosed with AIDS in 2006-7, whereas only 22% of non-foreign-born New Yorkers were diagnosed simultaneously with HIV and AIDS in 2006-7.¹ Moreover, foreign-born New Yorkers who received an HIV diagnosis in 2006-7 and entered the treatment system within three months following their diagnosis had a reduced median CD4 count (269), compared with non-foreign-born New Yorkers who received an HIV diagnosis and entered the system within three months and had a median CD4 count of 352.² This means that immigrants are diagnosed later, on average, than US-born individuals. The current policy actually undermines public health and costs our health care system more in the long run.

- The financial argument for testing and for banning the entry of HIV-infected foreigners is flawed. The US tests for HIV/AIDS but not for other chronic, complex, and expensive-to-treat illnesses such as cancer, heart disease, and diabetes – conditions which potentially afflict much larger numbers of travelers and immigrants. Moreover, immigrants to the US have to provide evidence that they will not constitute a civic burden and cannot obtain means-based public assistance for five years following their admission to this country.
- The testing and travel ban means that potential contributors from other countries to the international dialogue about HIV/AIDS cannot participate in the conversation on US soil. It denies admission to people living with HIV who are recipients of aid from the President's Emergency Fund for AIDS Relief (PEPFAR) and who could potentially help to mold international HIV policy and practice. Moreover, it puts the United States in the awkward position of being one of only twelve countries in the world to forbid the admission of PLWHA. The other eleven countries are Armenia, Brunei, Colombia, Fiji, Iraq, Libya, Moldova, Russia, Saudi Arabia, and Sudan.³ Most other wealthy, developed nations with advanced health care systems have no such restrictions.
- The money expended in testing and keeping people out would be better expended on prevention, voluntary counseling and testing, and linkage to treatment and care.

¹ HIV-AIDS in Foreign-Born New Yorkers, HIV Epidemiology and Field Services Program, New York City Department of Health and Mental Hygiene, July 2009.

<http://www.nyc.gov/html/doh/html/direc/hivepi.shtml>

² HIV/AIDS in Foreign-Born New Yorkers, HIV Epidemiology and Field Services Program, New York City Department of Health and Mental Hygiene, July 2009,

<http://www.nyc.gov/html/doh/html/dires/hivepi/shtml>

³ CNN, Vital Signs, Nov. 14, 2008 accessed at <http://edition.cnn.com/2008/HEALTH/11/17/hiv.ban>

- The ban is unethical. Mandatory testing is an invasion of privacy and confidentiality and promotes stigma and discrimination.

I would like to take this opportunity to thank the new Director of the Centers for Disease Control and Prevention, Thomas R. Frieden, MD, MPH, for supporting the administrative lifting of this ban.

On behalf of the Planning Council, I respectfully request that you remove HIV from the list of “communicable diseases of public health significance” as soon as possible.

Very truly yours,

A handwritten signature in cursive script that reads "Soraya Elcock". The signature is written in black ink and is positioned above the typed name.

Soraya Elcock
Community Co-Chair

