



American Public Health Association

Working for a Healthier World

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December 6, 2007

Michael Chertoff
Secretary
U.S. Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

On behalf of the American Public Health Association (APHA), I write in opposition to the Department of Homeland Security's (DHS) proposed rule for HIV-positive nonimmigrant temporary travels to the United States (Docket ID USCBP—2007—0084—0001). APHA is the oldest and most diverse organization of public health professionals in the world, dedicated to protecting all Americans and their communities from preventable, serious health threats and assuring community-based health promotion and disease prevention activities and preventive health services are universally accessible in the United States.

For the past 20 years, the U.S. has barred HIV-positive people from immigrating to the U.S., barred HIV-positive immigrants already in the U.S. from attaining any recognized legal status, and barred HIV-positive people who are not U.S. citizens or legal permanent residents from traveling to or transiting through the U.S. On World AIDS Day 2006 (December 1), the White House announced that President Bush would direct DHS to propose a categorical waiver for HIV-positive people seeking to enter the U.S. on short-term visas. However, APHA finds the proposed rule discriminatory and unjustifiable on public health grounds.

Under the proposed rule, waiver applicants would be required to demonstrate a "controlled" or asymptomatic state of HIV, provide evidence that the danger to public health is minimal, carry a sufficient supply of antiretrovirals (ARVs) to last for the duration of their trip, and possess sufficient assets (such as insurance) to cover the cost of any medical services they may need while in the U.S. These criteria are unacceptable for the following reasons: consular officers and Customs and Border Patrol personnel are not equipped or trained to make determinations regarding disease symptoms, medication, HIV transmission, or risks to public health; there is no mechanism for an individual who is denied entry into the U.S. to appeal a consular officer's decision; HIV treatment regimens may need to be adjusted during their trip; and the assets requirement discriminates against travelers who are low-income, whose insurance is not recognized in the U.S. or who are uninsured because of the healthcare delivery system in their home country.

Furthermore, APHA strongly supports overturning the HIV Inadmissibility Clause of the Immigration and Nationality Act. The U.S. is one of only 13 countries that completely bar HIV-positive people from traveling across their borders. This bar undermines individual and public health by discouraging

immigrants and visitors from seeking HIV testing and deterring HIV-positive immigrants from seeking any healthcare services including HIV treatment.

Thank you for your continued efforts to address public health concerns in the formation of DHS policies. Please feel free to call on us at any time if you have questions or need additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Georges C. Benjamin". The signature is fluid and cursive, with the first name being the most prominent.

Georges C. Benjamin, MD, FACP, FACEP (Emeritus)
Executive Director