

July 25, 2008

BY REGULAR MAIL AND FACSIMILE TRANSMISSION

The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500
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Dear Mr. President:

Lambda Legal Defense and Education Fund, Inc. (“Lambda Legal”) urges you to sign the Tom Lantos and Henry J. Hyde U.S. Global Leadership Against HIV/AIDS, Tuberculosis, and Malaria Reauthorization Act of 2008 (S. 2731), thereby taking an important step in eliminating the bar that prevents people living with HIV from entering the United States. The relief funds authorized as part of the President’s Emergency Plan for AIDS Relief (“PEPFAR”) constitute a significant contribution to the global fight against HIV and AIDS, and removing this discriminatory bar is a crucial step toward strengthening our nation’s leadership in that fight.

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those living with HIV through impact litigation, education and public policy work. Lambda Legal has represented the interests of people living with HIV since the beginning of the epidemic, and our work has ensured access to treatment, promoted effective prevention policies, and helped combat discrimination, bias and stigma.

Since 1987, a time when HIV was relatively poorly understood, our government has prevented people living with HIV from entering the U.S. as visitors or immigrants by including HIV infection on the list of diseases that render a person inadmissible. In the early 1990’s, however, relying upon the advice of public health experts, the Department of Health and Human Services (“HHS”) sought to end that ban. Given the limited methods by which HIV can be transmitted, HHS recognized that concerns about public health simply did not warrant preventing people living with HIV from entering or residing in this country. Unfortunately, despite the sound scientific and medical basis for this intended change in policy, Congress reacted to HHS’s plans by codifying the ban against visitors and immigrants with HIV.

As amended by Congress, the Immigration and Nationality Act requires HHS to include infection with HIV (the only disease or condition specified in the statute) on the list of diseases that serve as a basis for inadmissibility, regardless of the Secretary of HHS’s considered opinion as to the need to do so. *See* 8 U.S.C. § 1182. As a result of inclusion on this list, people living with HIV are ineligible to receive a visa to enter the U.S. – whether for

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vacation, employment, to attend a conference or for any other reason – and are ineligible to obtain lawful permanent resident status. Although waivers of this ban are available if specified conditions are met, those conditions are very restrictive and extremely difficult to satisfy.

The ban against HIV-positive travelers and visitors is a violation of basic human rights, and the reversal of this discriminatory policy is long overdue. The HIV ban is based on prejudice and unwarranted fears, not on medical knowledge and sound public health principles. Continuing the ban fosters misunderstanding by the American public about HIV transmission; fuels bias, stigma and discrimination against people living with HIV in this country; and alienates people across the globe – including medical professionals, scientific experts and various others who are among those leading the fight against this pandemic.

At long last, Congress has done its part to get rid of this ban. Section 305 of the PEPFAR reauthorization bill repeals the statutory language requiring HHS to include HIV on the list of diseases that make a person inadmissible to the U.S., thus returning to HHS the authority to make a determination based on medical knowledge and sound public health principles. By including this provision in the bill, Congress has finally recognized that the entry bar against individuals living with HIV is an unjustifiable infringement of basic human rights not in keeping with the traditions of this country, the principles on which it was founded or the role we want to play in the global fight against HIV and AIDS.

The power now rests with you and your administration to complete the process of dismantling this ill-advised, unfair and anachronistic policy. Lambda Legal urges you to sign this bill into law. Moreover, we urge you to immediately direct the Secretary of the Department of Health and Human Services to begin the process of removing HIV from the list of diseases that serve as grounds for inadmissibility. Not only is this the medically and scientifically correct thing to do, it is the right thing to do.

Sincerely,

Kevin Cathcart
Executive Director