



April 20, 2012

Thomas Farley, MD, MPH
Commissioner
New York City Department of Health and Mental Hygiene
42-09 28th Street, 8th Floor
Long Island City, NY 11101

Dear Dr. Farley:

As the Community Co-Chair of the HIV Health and Human Services Planning Council of New York, I write to encourage the New York City Department of Health and Mental Hygiene to respond to a request for information in the *Federal Register*, Volume 77, Number 49 (March 13, 2012) on the design of a pilot operational study to assess alternative blood donor deferral criteria for men who have sex with men (MSM). The United States Department of Health and Human Services (HHS) hopes to ascertain interest and acquire information related to the crafting of a pilot study on different donor deferral standards to facilitate blood and plasma contributions by MSM.

On account of the elevated prevalence of HIV among men who have sex with other men, gay men have been permanently excluded from the donor pool. Since 1985, the Food and Drug Administration has enforced a policy in which any man who has had sex with another man even once since 1977 is permanently “deferred” from donating blood, regardless of the man’s actual HIV status. This permanent exclusion is discriminatory against gay men and illogical: a man who had sex with another man ten years ago cannot donate, but a heterosexual individual who has had sex with an HIV-infected partner more than a year ago can give blood.

This permanent exclusion discriminates against an entire class of people: gay men. A recent study published by the Williams Institute, using data from the National Survey of Family Growth and the General Social Survey, indicates that there are approximately 4,030,946 men who have sex with men in the United States (3.6% of the U.S. population). While not all of these men would be able to donate blood, this discriminatory practice literally bars millions of healthy, low-risk homosexual male donors from giving blood, contributing to

Commissioner Thomas Farley, April 19, 2012

the serious shortage in the blood supply available to individuals in need of transfusions and blood products.

Thanks to the technological advance of nucleic acid amplification testing, the window period between when an individual has been infected with HIV and when he or she tests positive has been reduced to 9-11 days – further reducing the period during which a recently infected individual could donate without testing positive at the time of donation.

Other Western and Eastern countries have changed their policies on blood donation by MSM: Russia has removed its ban; South Africa has a six-month deferral; Argentina, Australia, Hungary, Japan, and Sweden have a one-year deferral; New Zealand has a five-year deferral; and Italy and Spain screen all donors, regardless of sexual orientation, for high-risk practices rather than insisting on a blanket deferral for MSM activity.

Within our own City and within the US as a whole, consensus is emerging on revising the lifetime ban on blood donations by MSM. Knowing that the New York Blood Center alone requires over 2,000 volunteer blood donations each day to meet the transfusion needs of patients in close to 200 New York and New Jersey hospitals, the New York City Council voted 42 to 1 on April 29, 2010 to encourage the US Food and Drug Administration to revise the permanent ban on blood donation by men who have sex with men. As City Council Speaker Christine Quinn noted, many organizations, including the American Red Cross, the American Association of Blood Banks, America's Blood Centers, and the American Medical Association, in addition to major HIV/AIDS organizations, have encouraged the FDA to adjust the lifetime ban, enabling men who have sex with other men to give the gift of life.

Major political figures have also weighed in with support for reversing the ban: in March of 2010, Senator John Kerry and seventeen other United States Senators wrote a letter to the FDA, calling on it to review its policy; and thirty-three Members of the US House of Representatives, along with nine Senators, sent a combined letter to the Department of Health and Human Services' Advisory Committee on Blood Safety and Availability urging a reconsideration of the policy. An additional forty-seven organizations have signed on to a letter encouraging reexamination of the FDA's decision on this matter.

Given the shortages in the US blood supply, the discriminatory nature of a blanket and essentially permanent ban on donations by all MSM, the technological advances enabling faster detection of infection and a reduced window period, the fact that other developed countries have adopted far less restrictive policies, and emerging political consensus on this matter, on behalf of the HIV Health and Human Services Planning Council of New York I

Commissioner Thomas Farley, April 19, 2012

strongly recommend that the New York City Department of Health and Mental Hygiene respond to the RFI in the *Federal Register* and propose alternative methods for screening out high risk MSM donors to the US blood supply and screening in MSM donors who are at no greater, and in some cases lesser, risk of HIV infection than the general population.

Sincerely yours,



Dorella Walters
Community Co-Chair
HIV Health and Human Services Planning Council of New York

cc: Michael Bloomberg, Mayor of the City of New York
Sharen Duke, Chair, Policy Committee
Jan Carl Park, Governmental Co-Chair, Planning Council
Christine Quinn, Speaker of the New York City Council

Attach: Request for Information (RFI) on Design of a Pilot Operational Study To Assess Alternative Blood Donor Deferral Criteria for Men Who Have Had Sex With Other Men (MSM), Department of Health & Human Services [Federal Register Volume 77, Number 49 (Tuesday, March 13, 2012)]

Resolution Calling Upon the United States Food and Drug Administration to Reverse Their Longstanding Prohibition on Homosexual Men Donating Blood, New York City Council Resolution No. 80-A, March 16, 2010

Sean Cahill, Nathan Schaefer, John Guidry, "A Drive for Change: Reforming U.S. Blood Donation Policies: A Report by Gay Men's Health Crisis," 2010