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May 9, 2006

The Honorable Michael B. Enzi
Chairman
Committee on Health, Education, Labor and Pensions
United States Senate
428 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Edward M. Kennedy
Ranking Member
Committee on Health, Education, Labor and Pensions
United States Senate
646 Dirksen Senate Office Building
Washington, D.C. 20510

Re: Legal Services and Ryan White CARE Act Reauthorization

Dear Chairman Enzi and Ranking Member Kennedy:

Your committee is currently considering proposals to reauthorize the Ryan White Comprehensive AIDS Resources Emergency (CARE) Act, the primary federal domestic program charged with improving the quality and availability of care for persons living with HIV/AIDS and their families and reducing transmission of the virus. Because legal services are vital to the Act's continued success in achieving these objectives, the American Bar Association urges the Committee not to cap funds available for legal services.

In 2005, President Bush proposed changing the funding formula for the pending reauthorization of the Act. Among other changes, the Administration seeks to establish a set of "Core Medical Services" that represent the basic, primary medical care required by individuals with HIV/AIDS, and to require that 75 percent of CARE Act funds be restricted to those services. Services not deemed essential to maintaining physical and mental health of the individual patient under this new formula, including legal services, would be capped at 25 percent or less of available funds. Senator Tom Coburn (R-OK) recently introduced S. 2339 to reauthorize the CARE Act, including the proposed 25 percent cap.

The ABA opposes the proposed 25 percent cap on social services funding because it likely would result in a substantial cut in legal services for people living with or affected by HIV/AIDS, with serious consequences for HIV prevention. **The Centers for Disease Control and Prevention (CDC)**, in its 2001 *Revised Guidelines to HIV Counseling, Testing, and Referral*, recommends prompt referral to legal services after diagnosis of

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HIV infection to preserve patient confidentiality and prevent discrimination in employment, housing, and public accommodation. Fear of such discrimination causes many persons who may be at risk for infection to avoid getting tested for HIV altogether, which undermines HIV prevention efforts.

Indeed, medical and legal services providers report that virtually everyone living with HIV/AIDS encounters legal problems associated with his or her health status, and that many cannot afford the legal representation they need to fight for their rights to continue working, maintain access to healthcare, or ensure their confidentiality. These types of assistance include navigating the public-benefits bureaucracy; maintaining private health insurance; help with debtor-creditor concerns; advice on probate, family support, and arranging for the proper care of dependents; and, of course, preserving housing and employment in the event of discrimination. Legal assistance in these and other areas helps ensure that "Core Medical Services," including drug treatment regimens, are provided and followed consistently. And, given the CDC's recent call for routine HIV testing, the need for legal services may well increase.

Flexible, locally controlled funding for legal services thus has been and will continue to be critical to the enduring success of the Ryan White CARE Act, and therefore should not be capped in the final reauthorization bill.

Thank you for your consideration. For further information, please contact Julie M. Strandlie, ABA Legislative Counsel for Civil Legal Services, at 202 662-1764 or Ellen McBarnette, Legislative Counsel for HIV/AIDS issues, at 202 662-1767.

Sincerely,



Robert D. Evans

cc: Members, House Committee on Energy and Commerce
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