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July 15, 2014

The Honorable Patrick Leahy, Chairman
The Honorable Chuck Grassley, Ranking Member
US Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, DC 20510

RE: Full committee hearing, "S 1696: The Women's Health Protection Act: Removing Barriers to Constitutionally Protected Reproductive Rights"

Written testimony in support of S 1696, submitted electronically.

Dear Chairman Leahy and Ranking Member Grassley:

The National Council of Jewish Women (NCJW) is a grassroots organization of volunteers and advocates who turn progressive ideals into action. Inspired by Jewish values, NCJW strives for social justice by improving the quality of life for women, children and families, and by safeguarding individual rights and freedoms.

Founded in 1893, NCJW has a long history of strong support for the protection of every female's right to reproductive choices, including safe and legal abortion; access to contraception; and the elimination of obstacles that limit reproductive freedom. The ninety-thousand members, volunteers, and supporters of NCJW affirm abortion as an essential component in the spectrum of comprehensive, confidential, affordable reproductive health services that must be accessible to women, regardless of age, ability to pay, or other factors. Ensuring that all women have access to comprehensive reproductive health services, particularly including abortion, is essential to a woman's health, economic opportunity, and to her full equality.

We believe that each woman must have the right to exercise her own moral judgment when making personal decisions, including those that affect her reproductive life. Reproductive freedom is integral to a woman's religious liberty. A woman must be able to make decisions about her reproductive health according to her own religious beliefs, moral values, or faith tradition. For a woman to be able to make her own decisions, she must have access to the care and services she needs.

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**Statement of National Council of Jewish Women
In Support of S 1696/HR 3471, the Women’s Health Protection Act**

NCJW is deeply troubled that, despite each woman’s *de jure* constitutional right to end a pregnancy, the ability of a woman in the United States to access abortion has become dependent upon where she lives as well as her income. This landscape obstructs reproductive justice, the ability of a woman to fully exercise her reproductive rights regardless of her age, income, race, or other factors. State legislators have advanced restrictions that make abortion more difficult for women to access, and for health professionals to provide. These restrictions harm women’s health, economic security, and religious liberty; and fall hardest on women and families who are marginalized in our communities, particularly those who are poor or low income and people of color.

Given this reality, the Women’s Health Protection Act is urgently needed to restore a woman’s ability to access abortion no matter where she lives, and restore her ability to truly make moral decisions about her health and well-being without political interference.

The Women’s Health Protection Act would make unlawful any policy or regulation which singles out abortion services for limits that are more burdensome than those imposed on medically comparable procedures; those which do not significantly advance women’s health or the safety of abortion care; and which make abortion services more difficult to access. Over the past several years, conservative state lawmakers have intensified their attacks on access to abortion, reaching unprecedented levels. More state restrictions have been enacted in the past four years than in the prior decade¹. Recent trends include targeted regulation of abortion providers (or TRAP laws), placing medically unnecessary, onerous restrictions on clinics and providers; banning the use of telemedicine to provide abortion or forcing providers to adhere to outmoded regimens in the provision of medication abortion; and pre-visibility or “later abortion” limits that ban abortion at an arbitrary gestational limit, among others. Taken together, more than half — or 56-percent² — of all women of reproductive age in the US currently live in states “hostile to abortion,” where care is difficult or nearly impossible to access.

Such restrictions do not reduce the need for this abortion, but they erode women’s rights and risk harming women and their families with far-reaching consequences. For many women, barriers to abortion only serve to make complex decisions even more difficult. This could have been the case for Dr. Julie Bindeman, a clinical psychologist who practices in Rockville, Maryland, who needed abortion later in pregnancy. In March 2014, Julie spoke to NCJW’s 46th national convention about her experience, when our organization honored her with a “Women Who Dared” award for her courage in reproductive justice advocacy.

Julie and her husband had one son and wanted another child. Her first pregnancy in this effort resulted in miscarriage, a devastating outcome for her and her family. She was happy when she became pregnant after a second try, but the experience did not begin as she anticipated. She experienced blood clots and was put on “pelvic rest” for a week. Eventually, additional tests showed her developing fetus was

¹ Heather Boonstra and Elizabeth Nash, “A surge of state abortion restrictions puts providers – and the women they serve – in the crosshairs,” *Guttmacher Policy Review*, Winter 2014 (<http://www.guttmacher.org/pubs/gpr/17/1/gpr170109.html>)

² Ibid.

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healthy, so she went to her doctor for a 20-week ultrasound eager to learn its gender. The ultrasound showed she was having a boy, but the additional information gained from the scan showed complications. As Julie explains:

Our OB...told us that the ultrasound showed our child's brain ventricles were nearly twice the size they should be. My husband and I sat in stunned silence, and we slowly began to cry deep sobs of pain.

...We then met with several specialists to get second and third opinions [from experts at Children's Hospital], including a radiologist, pediatric neurosurgeon, and genetic counselor. Each specialist confirmed the horrible news: our best case scenario, if the baby even survived to term, was that our son would have the developmental ability of a two-month-old.

The diagnosis was ventriculomegaly and hydrocephalus, with likelihood of ancephaly [severe brain malformations]. We were told our two options: we could terminate the pregnancy, or carry to term and see what happened. I asked point blank about the chances of a miracle. The doctors at [Children's Hospital] tend to be 'hope-givers,' but for my question they had no optimistic outcome to share.

We decided to end the pregnancy, [making a decision the day before Thanksgiving.] I somehow made it through the holiday completely in a fog, trying to ignore the kicks that were getting stronger. These kicks had no conscious thought behind them, nor would any of my son's actions. [While Maryland allows surgical abortion at this stage of pregnancy, there were no providers in the state.] I wanted to be around family, so we decided to deliver locally. My husband and I went to the hospital and worked with the medical team to induce labor. My son died soon after delivery and I was discharged the next day. I was 21 weeks gestation.

For Julie, ending her pregnancy was an emotionally fraught and painful decision. Thankfully, because she lived in Maryland, this decision remained hers to make. Had Julie lived in one of the 10 states that now ban abortion at about 20 weeks postfertilization³, she might have been forced to carry her pregnancy to term. The Women's Health Protection Act would help women and families facing similar situations by making unlawful bans on abortion based on arbitrary gestational limits.

Julie's story further illustrates that every pregnancy is different. Not every pregnancy ends the way a family hopes it will; some end in miscarriage, sometimes a woman develops health complications, and in some cases, women hear difficult news from their doctors that something is wrong with their pregnancy. Just as each pregnancy is different, so is every woman's personal circumstances. According to the Guttmacher Institute, one in three women will have an abortion in her lifetime; each of their stories are as different as the lives they live. A woman may be facing an unintended pregnancy and knows she is not ready to become a parent; seeking to build her family, but facing difficult news about a severe fetal anomaly; or, already a mother who knows she cannot afford to raise another child. No matter her

³ Guttmacher Institute, "States continue to enact abortion restrictions in first half of 2014, but at a lower level than in the previous three years," News in Context, July 8, 2014 (<http://www.guttmacher.org/media/inthenews/2014/07/08/index.html>)

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circumstance, a woman must be free to make personal decisions about her health and reproductive life without political interference.

Current state interference in these decisions harms some women more than others, and can jeopardize their economic security. For example, women and families struggling to make ends meet, who today are disproportionately people of color, face steeper challenges to overcome restrictions on access to care than their neighbors with greater resources. Access barriers can impose great financial burdens on women and families, with far-reaching consequences: a woman may be forced to delay needed care, unnecessarily increasing the risk of an otherwise safe procedure, or shut off her phone or utilities just to pay for the care she needs. Indeed, recent studies show that a woman who seeks abortion services but is denied is three times more likely to fall into poverty than a woman who can access this care⁴. This threat to women's financial security and independence is another critical reason why we support the Women's Health Protection Act.

Safe, timely, accessible care is another reason why women need this legislation. Julie was able to obtain the quality care she needed near her home and family, but many women are seeing abortion services in their communities shrink dramatically or disappear altogether. A survey of clinics, state health departments and local abortion rights advocacy organizations conducted by The Huffington Post found that "at least 54 abortion providers across 27 states have shut down or ended their abortion services in the past three years" (from 2010-2013) primarily as a result of TRAP laws' onerous requirements⁵. Additionally, the Guttmacher Institute reports that nearly 60-percent of women of reproductive age now live in one of the 26 states with one or more TRAP restrictions⁶. Such statistics are appalling. When a woman decides to obtain an abortion, it is critical that she have access to safe, timely medical care, the availability of which should not depend on where she lives. The Women's Health Protection Act would help reverse this dangerous trend, ensuring that women across the country can access needed care.

Another critical reason why women need this legislation is the protection of women's religious liberty and moral agency. Julie was able to make a decision that was best for her and her family, in the context of her own religious, moral, and ethical beliefs and values. Despite it being their constitutional right, women in other states may not have that choice in reality, given restrictions on access to care. As a result, women who seek abortion, but are denied, see their religious liberty eroded along with their reproductive freedom.

As a faith-based women's organization, NCJW understands that those who would restrict women's access to abortion and other reproductive health services are often motivated by their religious beliefs. However, it is essential to recognize that there is no single religious teaching on these issues. The Jewish tradition teaches that, during a pregnancy, the life of the mother takes precedence over the potential life

⁴ Joshua Lang, "What Happens to Women Who are Denied Abortions?" *New York Times*, June 12, 2013 (http://www.nytimes.com/2013/06/16/magazine/study-women-denied-abortions.html?pagewanted=all&_r=1&)

⁵ Laura Bassett, "Anti-abortion laws take dramatic toll on clinics nationwide," *The Huffington Post*, August 8, 2013 (http://www.huffingtonpost.com/2013/08/26/abortion-clinic-closures_n_3804529.html)

⁶ Guttmacher Institute, "States continue to enact abortion restrictions in first half of 2014, but at a lower level than in the previous three years," *News in Context*, July 8, 2014 (<http://www.guttmacher.org/media/inthenews/2014/07/08/index.html>)

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of a fetus, particularly as “Judaism does not believe that personhood and human rights begin with conception, but with birth.”⁷ Different religions have differing views on when life begins, on attitudes towards abortion, and other reproductive health issues. Even within religions, there can be varying opinions.

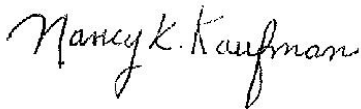
Our nation has answered the questions of this pluralism by upholding the key, founding principle and constitutional right of religious freedom. NCJW is committed ensuring that every person be given due respect for holding their own religious beliefs with regard to abortion and other healthcare. But we firmly believe it is unjust to privilege one view over another by enacting laws that restrict access to legal healthcare, in order to deny a woman from making her own faith-informed decisions about her health and family. Each person of faith, and those who do not follow a religious tradition, must be allowed to make their own faith or conscience-informed decision. For the legislature to mandate one religion's views on this very personal issue is to restrict religious liberty for all.

The decision to choose adoption, end a pregnancy, or become a parent are deeply personal. They may be complicated and challenging, as for NCJW honoree, Dr. Julie Bindeman. But no matter a woman's circumstances or where she lives, our lawmakers have a duty to protect her constitutional right to make this decision, based on her own religious beliefs and moral values and in the context of her life.

State legislators are eroding women's rights and freedoms. They are placing women's health, well-being, and economic security at risk as they aggressively enact unprecedented levels of restrictions on abortion. It is time for Congress to step in to provide women and their families with the federal protection they urgently need.

NCJW urges Congress to swiftly pass the Women's Health Protection Act and see it enacted into law. Thank you for your consideration of this testimony.

Sincerely,



Nancy K. Kaufman, CEO
National Council of Jewish Women

⁷ The Rabbinical Assembly, “Resolution on reproductive freedom,” February 2007, (<http://www.rabbinicalassembly.org/resolution-reproductive-freedom>)