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Before the

Comision de lo Juridico/Committee on Legal Matters

Concerning Legislation Relating to Abortion

October 5, 2022

My name is Christian F. Nunes and I am president of the National Organization for Women (NOW) in the United States. Thank you for this opportunity to speak to this commission of esteemed lawmakers. NOW is the largest feminist grassroots activist organization in the United States, with chapters in every state and the District of Columbia. We are dedicated to defending women's equal rights within an intersectional feminist and anti-racist agenda.

For more than a half century, NOW has advocated for a recognition of the fundamental right of all persons to maintain bodily autonomy. Our position is that access to abortion care underpins the ability of a person to control their reproductive and sexual lives. The ability to determine whether and when a person will have children is a cornerstone of that fundamental human right. It is also closely related to the socio-economic well-being of pregnant persons and their families.

I submitted testimony against legislation that would restrict access to abortion care when it was offered in the Puerto Rico Senate in late April. This time I would like to speak against three bills that are before this committee. Each would set women back in Puerto Rico, lead to complications that could impact their health or lives, and negatively affect the well-being of their families.

Concerning the first of those bills, the National Organization for Women opposes adoption of PS693, Law for Protection of the Conceived in its Gestational State of Viability, that would prohibit abortion after 22 weeks of gestation. Often fetal abnormalities are not diagnosed until well after 22 weeks. Additionally, pregnancy complications affecting the health of the woman and pregnant persons occur later in the pregnancy. Although the proposed legislation offers certain exemptions such as medical emergency and fetal anomaly incompatible with life, we have seen in the U.S. confusion over when medical intervention may legally permissible, further endangering the woman's life.

Most onerous among the various bills being discussed is PC1084, a ban "when a fetal heartbeat can be detected, at 6 ½ to 7 weeks". The claim is not medically accurate, according to medical experts, who say that a fetal heart begins to have a structure at 10 – 12 weeks and a steady heartbeat can be best determined at that stage. The difficulty with a six-week ban so early in the pregnancy is that most women do not know that they are pregnant. So, effectively this is a full ban on abortion which prevents the opportunity for a woman to decide whether to continue the pregnancy.

In addition, as I noted in earlier testimony, this legislation would authorize a Cause of Action brought be anyone against physicians who perform abortions in contravention of the law and any person who knowingly permits a doctor to perform an abortion as well as any health care facility or individual who benefits from that abortion may. An amount of at least $25,000 may be ordered as compensation. This approach, which Texas first adopted, undermines the rule of law, essentially putting enforcement of this law in the hands of private citizens.

The third and final bill, PC1410 would authorize a referendum on two choices: one that would prohibit abortion and require the government to provide support for the woman or pregnant person. The alternate approach states that abortion is to be considered legal, free and unrestricted. Following the results of the referenda vote, legislation would be crafted to carry out the intent of the measure that receives most votes. The problem with referenda, in general, voters can be stymied by confusing language or statements with value-laden terms. The language posed in PC1410 has both of those drawbacks. Additionally, other elements in the legislation that would be written following the referenda may be problematic.

The experience in the United States since the Supreme Court overturned *Roe v. Wade* should be instructive. This is the first time in U.S. history that a constitutional protection has been withdrawn and done so against the views of a majority of the public. The ruling has proven very unpopular; even conservative politicians who for years campaigned to ban abortion are now backing away. Litigation challenging state bans has increased, and injunctions have been placed on a number of restrictive state laws. The level of outrage is very high among younger women who have only known that they could obtain a safe and legal abortion.

The U.S. Supreme Court's ruling in *Dobbs v. Jackson Women's Health Organization* has prompted Americans to consider the serious consequences of abortion bans and to re-affirm their own views. A substantial majority of the American public supports abortion access and opposes the Court's decision. According to several national polls, a majority of the public ranging between 59 percent to 70 percent say abortion should be legal in most or all cases. This majority, by the way, has remained fairly steady since *Roe*. Catholics by 37 percent agree on abortion being accessible in most cases, with another 23 percent say all cases, a total of 60 percent – close to the views of the general population. Other demographic categories show similar levels of support.

The Court's ruling in *Dobbs* permits states to adopt their own laws concerning abortion, asserting that state legislatures should decide whether to allow abortion. At this moment, 24 states have retained laws protective of abortion care, including six states with certain limitations. Fourteen states completely ban abortion and four more variously ban the procedure at 14-, 18- and 20-weeks' gestation. Nine states have their bans currently blocked by court-imposed injunctions.

At least six states will be voting on ballot initiatives in November, three in support of abortion rights and two. In early August, Kansas voters resoundingly rejected a ballot measure that would have provided that the state constitution cannot be interpreted to establish a state constitutional right to abortion; a similar ballot measure is pending in Kentucky. Additionally, activists are

gearing up for the November 8th midterm elections determined to defeat candidates who oppose abortion rights.

Predictably, the situation has created widespread confusion -- not only for persons needing abortion care but also for physicians concerned about protecting their professional practice. The dilemma arises when a pregnant woman in a health crisis and needing an abortion is required by state law to be *near death,* essentially, before an abortion can be provided. Some states prescribe criminal penalties for providers who provide an abortion outside of the law's strict limitations. Clearly, this cannot be sound medical practice to wait until a woman is experiencing organ failure or sepsis before she can receive a live-saving abortion. In other cases when there is a severe fetal abnormality that will not allow for life outside the womb such conditions may also require urgent attention – but some state laws now prevent that.

Pregnant women from states with extreme bans are travelling -- sometimes thousands of miles – to obtain an abortion. Those who have the means – financial and otherwise – can obtain abortion care. While those who do not have the financial resources to travel, pay for a hotel and the care for their children are not able to obtain abortions. It is primarily those women who live in poverty-impacted communities – often communities of color -- who are most harmed by abortion bans. A consequence of the *Dobbs* decision is a tragic racial disparity that will only deepen poverty and suffering for many. We know that this is a concern of many legislators in Puerto Rico.

Dobbs has meant the closure of scores women's health clinics where bans have been put in place. In states where clinics continue to provide care, they are overwhelmed with hundreds of patients from other states each day, resulting in long waits and over-worked providers. There is widespread uncertainty about where lines are drawn for physicians in emergency situations, when criminal prosecution is threatened. Prohibitions against performing abortion when rape or incest is alleged is causing further uncertainties. Excessive reporting requirements for providers when an abortion is required due to a medical emergency place an extra burden on already stressed healthcare professionals.

We have heard the report of a pregnant ten-year-old victim of rape refused an abortion in one state, needing to travel to another for care. Additionally, one report related to a 16-year-old told that she is not old enough to have an abortion -- but the logical question arises does that mean she is old enough to support a child? It has also been reported that women whose fetuses have no heartbeat or other severe abnormality are being forced to continue with the pregnancy, endangering their own lives.

Experience prior to *Roe v. Wade* in 1973 demonstrated that restricting women's access to safe and legal abortion services has important health implications. Such laws do not result in fewer abortions. Women need to be in the care of a physician or other qualified health care provider who can safeguard their health throughout pregnancy, delivery and postpartum.

Puerto Rico's maternal mortality rate has hovered around 21 per 100,000 live births in recent years, like that of the U.S. at 19 per 100,000 live births – both figures are *three times higher* than those of developed nations. There is a racial aspect to maternal mortality in that complications in

pregnancy and post-delivery occur at higher rates among Black women, Latinas and indigenous women. More investments in maternal health research and accessible healthcare services are required to bring those rates down. The U.S. is taking steps to address this tragic reality. Finally, in addition to maintain access to abortion care, a major need is to assure that a variety of contraceptives methods are widely available and affordable and that Puerto Rican women able obtain obstetrical-gynecological (OB-GYN) care.

In closing, I am sincerely hoping that lawmakers decide on legislation that places the health and well-being of women and their families as their first concern. Women will make the best decisions for themselves and their families.