

January 20, 2015

Dear Members of the House of Representatives:

We write to you as organizations strongly opposed to H.R. 36, an unconstitutional and dangerous limitation on abortion that puts women's health and rights at risk. If it were to pass, H.R. 36 would impose a nationwide ban on abortions at twenty weeks with only two inadequate and extremely narrow exceptions.

H.R. 36 would make it harder for every woman across the country who needs an abortion and is already facing difficult circumstances. There are many reasons why a woman may need an abortion and—as with any medical care—there is no “one-size-fits-all” solution. Because each situation is different, we should not deny a woman the ability to make her own decisions in consultation with those she trusts the most. The very purpose of H.R. 36 is to deny women this dignity and right.

The ban would criminalize the provision of critically-needed and constitutionally protected care, imprisoning health care providers for up to five years just for providing such care to patients. Such a ban would both interfere with and obstruct the provider-patient relationship, the sanctity of which is a cornerstone of medical care in our country. The American College of Obstetricians and Gynecologists, the nation's leading association of medical experts on women's health, has come out in strong opposition to twenty-week bans, citing the serious threat these laws pose to women's health and because such bans are not based on sound science. Politicians are not medical experts and this is not an area where politicians should be interfering.

The bill's exceptions further expose the sponsors' deliberate lack of consideration for the women H.R. 36 would affect. As an initial matter, the two “exceptions” are so narrow as to be almost meaningless.

H.R. 36 limits the rape and incest exception to those survivors who are able and willing to report what happened to them to authorities. For various reasons, reporting can be an impossible option for a survivor. Indeed, according to a recent report, only 35 percent of women who are raped or sexually assaulted reported the assault to police.<sup>1</sup> Forcing a survivor to report a sexual assault before she can terminate a pregnancy resulting from rape or incest denies the survivor control at a critical time that could lead to further trauma. This underscores the sponsors' callousness to the range of difficult circumstances women could be facing when considering an abortion later in pregnancy. Additionally, H.R. 36 only exempts a survivor of incest if she is a minor, again further gutting the exemption by creating unnecessary, insensitive, and illogical categories of sexual assault survivors.

Second, the life exception is unacceptably narrow and puts insurmountable obstacles in the path of health care providers. Even in the dire circumstances that would qualify for the exception, the provider could only provide life-saving care after establishing that the woman would die or

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<sup>1</sup> U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, NCJ 240655, March 2013, Female Victims of Sexual Violence, 1994-2010 (March 2013).

suffer life-threatening injuries if the termination was not provided at that moment. Forcing health care providers into such an untenable situation is beyond cruel, and indeed could result in health care providers making the determination after it is too late to protect a patient's life.<sup>2</sup> It also expressly excludes mental illness, meaning that a woman who is suicidal would be denied an abortion that could save her life.

Not only is H.R. 36 cruel, but it is also unconstitutional and a direct challenge to *Roe v. Wade*, which held that states may not ban abortion prior to fetal viability, and that post-viability bans must include adequate protections for both a woman's life and health. H.R. 36 clearly violates these established constitutional standards by banning pre-viability abortions outright,<sup>3</sup> including an inadequate life exception, and failing to include a health exception entirely.

A woman's health, not politics, should drive important medical decisions. Women don't look to politicians for advice on mammograms, cervical cancer screenings, or maternal health needs, and abortion is no different. This deeply personal decision should always be made by a woman in consultation with her doctor, family, and other trusted individuals, not politicians.

H.R. 36 is a blatant attempt to deny women their constitutional rights and threaten the health of women in the United States. The House of Representatives should reject H.R. 36—just as voters did by a double-digit margin in Albuquerque, New Mexico when faced with a similar ban<sup>4</sup>—and instead focus on efforts to expand women's access to comprehensive health care.

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<sup>2</sup> Savita Halappanavar's tragic death in Ireland represents just what can happen when politics interfere with woman's health care. After being denied an abortion while suffering a miscarriage, Ms. Halappanavar suffered from blood poisoning and died. Shawn Pogatchnik, Savita Halappanavar Dead: Irish Woman Denied Abortion Dies From Blood Poisoning, Huffington Post, January 14, 2013, *available at* [http://www.huffingtonpost.com/2012/11/14/savita-halappanavar-death-irish-woman-denied-abortion-dies\\_n\\_2128696.html](http://www.huffingtonpost.com/2012/11/14/savita-halappanavar-death-irish-woman-denied-abortion-dies_n_2128696.html)

<sup>3</sup> Similar twenty-week bans have been struck down. *See, e.g., Paul A. Isaacson, M.D. et al. v. Tom Horne, Attorney General of Arizona, et al.* 716 F.3d 1213 (9th Cir. 2013) (Arizona law); *McCormack v. Hiedeman*, 900 F. Supp. 2d 1128 (D. Idaho 2013) (Idaho law); *Lathrop, et al. v. Deal, et al.*, No. CV224423, (Sup. Ct. of Fulton Cnty., Ga., Dec. 21, 2012) (Georgia law). The U.S. Supreme Court refused to hear an appeal of the Arizona case, leaving in effect the ruling from the appellate court striking down the law as unconstitutional. In striking down an Arizona twenty-week ban, the United States Court of Appeals for the Ninth Circuit noted: "Since *Roe v. Wade*, 410 U.S. 113 (1973), the Supreme Court case law concerning the constitutional protection accorded women with respect to the decision whether to undergo an abortion has been unalterably clear. . . a woman has a constitutional right to choose to terminate her pregnancy before the fetus is viable. A prohibition on the exercise of that right is *per se* unconstitutional." *Isaacson v. Horne*, No. 2:12-cv-01501-JAT, slip op. at 6 (9th Cir. May 21, 2013).

<sup>4</sup> Fernanda Santos, Albuquerque Voters Defeat Anti-Abortion Measure, N.Y Times, November 20, 2013, *available at* [http://www.nytimes.com/2013/11/20/us/albuquerque-voters-defeat-anti-abortion-referendum.html?\\_r=0](http://www.nytimes.com/2013/11/20/us/albuquerque-voters-defeat-anti-abortion-referendum.html?_r=0)

Sincerely,

Advocates for Youth  
American Association of University Women  
American Civil Liberties Union  
American Public Health Association  
American Sexual Health Association  
Black Women's Health Imperative  
Catholics for Choice  
Center for Reproductive Rights  
Feminist Majority  
Haddassah, The Women's Zionist Organization of America, Inc.  
Institute for Science and Human Values  
Methodist Federation for Social Action  
Metropolitan Community Churches  
NARAL Pro-Choice America  
National Abortion Federation  
National Center for Lesbian Rights  
National Council of Jewish Women  
National Health Law Program  
National Latina Institute for Reproductive Health  
National Organization for Women  
National Partnership for Women & Families  
National Women's Health Network  
National Women's Law Center  
People For the American Way  
Physicians for Reproductive Health  
Population Connection Action Fund  
Population Institute  
Planned Parenthood Federation of America  
Reproductive Health Technologies Project  
Secular Coalition for America  
Sexuality Information and Education Council of the U.S. (SIECUS)  
Unitarian Universalist Association  
URGE: Unite for Reproductive & Gender Equity