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September 22, 2017

The Honorable Edmund "Jerry" G. Brown, Jr.
Governor of California
State Capitol
Sacramento, California

RE: AB 569 (Gonzalez Fletcher) Discrimination: reproductive health - VETO REQUEST

Dear Governor Brown:

The California Catholic Conference (CCC) writes to urge you to veto AB 569 (Gonzalez-Fletcher), which would add a new section to the California Labor Code, to prohibit an employer from taking adverse employment action against an employee, based on the use of any drug, device, or medical service related to reproductive health, by an employee (male or female), or the employee's dependent or family member.

There are many reasons that the CCC opposes this bill, including concerns that were repeatedly presented to the Legislature by the business community in California. Foremost among these objections is the fact that protections related to pregnancy already exist in the Fair Employment and Housing Act (FEHA), which is enforced by the Department of Fair Employment and Housing, yet AB 569 would place the new restrictions in the *Labor Code*, which is enforced by the State Labor Commissioner. This redundancy would not only add to the state budget burden, it would result in potentially conflicting splits of interpretation and enforcement activity between two state agencies, on similar factual issues. The resulting expense to taxpayers, not to mention the cost to employers as they attempt to navigate the two enforcement schemes, is completely unwarranted. The CCC adopts and affirms all these objections, particularly as the adverse effects of this bill would also be felt by nonprofit entities, the types of organizations that can least afford the burdens of compliance with an expansive regulatory scheme.

But the primary ground for the CCC's opposition is our conviction that AB 569 represents an unmistakable effort to specifically target religious-organization employers in this state. As noted, the issue of pregnancy rights is already addressed at length in the FEHA. When asked why these concerns can't be left to existing law, the proponents openly conceded that the only reason this new statute is being placed in the Labor Code is because there is a religious-employer exemption in the FEHA. We believe this reveals the true goal of this bill — to circumvent the religious-employer exemption that has been part of the FEHA since you originally signed the bill creating the Act, 37 years ago this very week. This represents a direct effort to infringe the First Amendment rights of religious freedom and association that protect such an employer's ability to infuse its personnel policies with tenets of that particular faith, and should be rejected.

Equally as alarming as the motivation of this bill is the lack of any basis for believing it is necessary. In their supporting materials, the sponsors and the author failed to identify a single instance of such discrimination in California, either by religious or non-religious employers. Their only specific local example, a case in San Diego, was actually resolved via negotiated settlement after that plaintiff had filed a lawsuit against her employer, *under the FEHA*. And although they also suggest that a California archdiocese attempted to restrict such rights, the reality is that the standards of conduct the

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bill supporters attack were agreed to as part of a union collective bargaining agreement between the archdiocese and the teachers' union — hardly evidence of some "oppressive" campaign by religious employers against reproductive rights, such as is insinuated by the proponents of this measure.

Regrettably, the proponents of AB 569 not only ignore the lack of need for the bill, they seem to intentionally and egregiously target conscience and religious liberty rights of faith-based organization employers. The adoption of standards of conduct that are often shaped by the employer's First Amendment rights of religious freedom and association, and that protect the employer's ability to infuse those policies with tenets of its particular faith, has always been permitted and respected in California. The CCC accordingly believes that the discretion of religious employers to set standards for those who it employs, to fully carry out their religious mission and purposes, should be both protected and respected.

These policy considerations demonstrate that AB 569 both disregards the value of religious employers in California, and almost seems calculated to generate lawsuits by employees. Then it goes even further, by inviting claims by dependents and family members of employees, creating a new kind of third-party claim that we do not believe exists anywhere in current law. AB 569 would thus only increase the burden on both state government and employers in California, and in many cases will directly violate the First Amendment rights of religious employers, leading to expensive and unnecessary litigation for years to come, as courts are asked to untangle the mess.

California already has laws in place to deal with concerns like this, and the state deserves better than this duplicative, punitive, and unnecessary regulatory burden. Consequently, as the official public policy voice of the Catholic Church in California, the CCC strongly opposes AB 569, and urges your veto of the bill. Should you have any questions about our position, please feel free to contact me directly at (916) 313-4000.

Yours sincerely,

Edward E. "Ned" Dolejsi
Executive Director

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cc: The Honorable Lorena Gonzalez Fletcher, Author, CA State Assembly