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September 18, 2008

To: Supervisor Yvonne B. Burke, Chair
Supervisor Gloria Molina
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Supervisor Don Knabe
Supervisor Michael D. Antonovich

From: William T Fujioka
Chief Executive Officer

MOTION TO OPPOSE PROPOSITION 4 – WAITING PERIOD AND PARENTAL NOTIFICATION BEFORE TERMINATION OF MINOR'S PREGNANCY (ITEM NO. 23, AGENDA OF SEPTEMBER 23, 2008)

Item No. 23 on the September 23, 2008 Agenda is a motion by Supervisor Yaroslavsky to express strong opposition to Proposition 4 on the November 4, 2008 ballot, and to urge voters to reject this counterproductive effort to interfere with young women's access to safe and appropriate medical care.

Proposition 4 would amend the State Constitution to require health care professionals to notify a parent or legal guardian 48 hours before performing an abortion on an unemancipated minor except in a medical emergency or with a parental or judicial waiver. A physician could notify an adult family member instead of notifying the minor's parent based on the minor's written statement that she fears abuse from the parent and that her fear is based on a pattern of such abuse. For purposes of this initiative, an unemancipated minor is a female under the age of 18 years who is not married, is not on active duty with the armed services of the United States and who has not received a declaration of emancipation under state law. Proposition 85 would permit a judicial waiver of notice based on clear and convincing evidence of the minor's maturity or of the minor's best interests. If the waiver is denied, the minor could appeal that decision to an appellate court.

Physicians would be required to report abortions performed on minors and the Judicial Council and California Department of Health Services would be required to maintain records and compile statistics relating to these abortions that would be available to the public. These reports would not identify the minor or any parent or guardian by name. The measure would also allow a minor to seek help from the juvenile court if anyone attempts to coerce her to have an abortion and would require the court to take whatever action it found necessary to prevent coercion.

Any person who performs an abortion on a minor failing to comply with the provisions of this measure would be liable for damages in a civil action brought by the minor, her legal representative, or by a parent or guardian who was denied notification. Any person, other than the minor or her physician, who knowingly provides false information that notice of an abortion has been provided to a parent or guardian would be guilty of a misdemeanor punishable by a fine.

Legislative Analyst's Office Report. The Legislative Analyst's Office (LAO) reports that the State costs of this measure are likely to be several million dollars annually for health and social services programs, court administration, and State Health Agency administration.

Affected Departments. The Department of Health Services indicates that this measure would have a minor effect on the Department because few abortions are performed in County facilities on patients under 18 years of age.

The Department of Public Health (DPH) indicates that, based on a review of the literature and the experiences of states that have parental notification laws, Proposition 4 will increase the health risk associated with unwanted pregnancies for women under the age of 18. DPH is concerned that this measure is likely to increase the delay in seeking care resulting in an increased number of higher risk second trimester abortions. Research indicates that pregnant teenagers delay obtaining abortions and parental involvement laws increase the delay even further. A multi-state study confirms that teenagers who conceal their abortion decisions from their parents rightly fear a negative, conflict-ridden or even abusive response. DPH further notes that before legalized pregnancy termination became available, low-income, young, and minority women were most frequently impacted by the negative health consequences of illegal abortion and higher maternal mortality rates.

The Department of Children and Family Services advises that Proposition 4 will have minimal if any effect on its operations.

Support and Opposition. Although the Yes on 4 Campaign staff indicate that they have not yet completed a list of those in support of the measure, previous versions of this proposition were supported by Life on the Ballot, former California Supreme Court Justice William Clark, former State Senator David Roberti, former State Assembly Member Barbara Alby, former State Senator Waddie P. Deddeh, the Executive Director of the

Campaign for California Families, former State Assembly Member Don Sebastiani, Dr. Robert T. Lynch of the Knights of Columbus, and the Executive Director of the California Right to Life Committee.

Proposition 4 is opposed by a number of medical and other organizations because it interferes with the doctor patient relationship and delays medical care and counseling, which is likely to result in riskier and more complicated procedures. It is opposed by the California Conference of Local Health Officers, California Nurses Association, American Academy of Pediatrics-California District, California Academy of Family Physicians, California Family Health Council, Planned Parenthood Affiliates of California, American College of Obstetricians and Gynecologists District IX California, League of Women Voters of California, NARAL Pro-Choice California, ACLU Northern California, ACLU Southern California, Equality California, California National Organization for Women, California School Health Centers Association, California Teachers Association, Anti-Defamation League, California National Organization for Women, California Women Lawyers, National Association of Social Workers California Chapter, National Women's Political Caucus of California, and the Reproductive Rights Coalition, among others.

Proposition 4 is substantially the same as Proposition 85 on the November 7, 2006 ballot, and Proposition 73 on the November 8, 2005 ballot, which were opposed by the Board on October 17, 2006 and October 25, 2005, respectively. **Opposition to Proposition 4 would be consistent with prior Board opposition to Propositions 85 and 73.**

WTF:GK
MR:MS:lm

c: Executive Officer, Board of Supervisors
County Counsel
Department of Health Services
Department of Public Health
Department of Children and Family Services