

LINDA LINGLE  
GOVERNOR OF HAWAII



CHIYOME LEINAALA FUKINO, M.D.  
DIRECTOR OF HEALTH

STATE OF HAWAII  
DEPARTMENT OF HEALTH  
P.O. Box 3378  
HONOLULU, HAWAII 96801-3378

In reply, please refer to:  
File:

**House Committee on Judiciary**

**, H.D. 1,**

**Testimony of Chiyome Leinaala Fukino, M.D.  
Director of Health**

**January 25, 2008, 2:00 p.m.**

1 **Department's Position:** The Department appreciates the intent of H.B. 0466, H.D. 1, to ensure that  
2 sexual assault victims are given medically accurate information about Emergency Contraception (EC)  
3 when they receive medical care at a hospital for sexual assault, and that they have immediate access to  
4 EC upon request. There should be no delay in making EC known and available to the victim as soon as  
5 possible within 72 hours from the time of assault. However, the Department must oppose this measure,  
6 because of fiscal considerations necessary to establish and maintain a statewide delivery system, as well  
7 as its potential impact on healthcare facilities that are opposed in principle to providing this service.

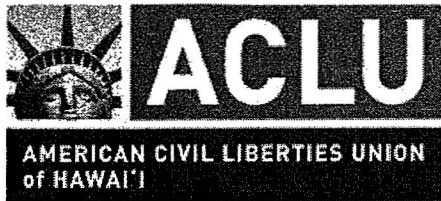
8 **Fiscal Implications:** There is a need to determine the estimated amount of funds necessary to carry out  
9 the requirements of the bill. Fiscal impact is undetermined at present.

10 **Purpose and Justification:** The bill states that "the cost of any EC dispensed shall be paid by the  
11 Department using moneys from the Domestic Violence and Sexual Assault Special Fund under Section  
12 321-1.3." This requires the establishment and maintenance of a statewide delivery system with  
13 unknown costs.

14 The number of sexual assault victims who present at the emergency rooms in Hawaii is  
15 unknown. The number of referrals to sex assault forensic medical services is also unknown. In order  
16 for a statewide delivery system to be implemented, the following issues need to be considered: a system

1 to purchase and distribute prescription and over the counter EC; a billing system for reimbursement of  
2 EC; and a plan to monitor and enforce the requirements of the bill. Protocols and written policy  
3 regarding the treatment and referral of sexual assault, especially for minors; also need to be established.  
4 This system will require training on sexual assault and emergency contraceptives to those who treat  
5 victims. In order to determine the cost of this statewide system, the Department will need to partner  
6 with stakeholders that include hospitals, pharmacies, healthcare facilities and sexual assault service  
7 providers.

8 Thank you for the opportunity to testify on this subject.



**VIA EMAIL:**

**JUDtestimony@Capitol.hawaii.gov**

Committee: Committee on Judiciary (30 copies)  
Hearing Date/Time: Friday, January 25, 2008, 2:00 p.m.  
Place: State Capitol, Conference Room 325  
Re: Testimony of the ACLU of Hawaii in Support of H.B. 466, HD1 (HSCR215)

Dear Chair Waters and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B. 466, HD1 (HSCR215) which seeks to require a hospital, including a public health facility, to provide information and emergency contraception to a sexual assault victim. The bill also seeks to require training and includes penalties.

The ACLU of Hawaii strongly supports this measure. Our national Reproductive Freedom Project has been working for the last several years to educate the public about the efficacy of emergency contraceptives (EC) and to increase their availability.

Widespread access and availability of EC for all women as a means of reducing unintended pregnancy is endorsed by many groups whom we have worked in partnership with, including the American Medical Association and the American College of Obstetricians and Gynecologists.

In the case of sexual assault in particular, emergency contraceptives are an appropriate, safe and effective means of reducing the risk of pregnancy after unprotected intercourse. Since E.C. is most effective within 72 hours after intercourse there is a particular urgency to providing survivors of sex assault with quick and easy access to the "morning after pill".

In short, EC has been shown to be safe and effective, and it is unethical to withhold it for any reason from a woman who has been raped. We urge the Committee to pass this important measure.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-

American Civil Liberties Union of Hawaii  
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HLT/HSH Committees  
February 6, 2007  
Page 2 of 2

profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify.

Sincerely,

Laurie A. Temple  
Staff Attorney  
Legislative Committee Member  
ACLU of Hawaii

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# COMMUNITY ALLIANCE ON PRISONS

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## COMMITTEE ON JUDICIARY

Rep. Tommy Waters, Chair

Rep. Blake Oshiro, Vice Chair

Friday, January 25, 2008

2:00 PM

Room 325

**STRONG SUPPORT - HB 466 HD1 - EC in the ER**

Aloha Chair Waters, Vice Chair Oshiro and Members of the Committees!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative working on prison reform and criminal justice issues in Hawai'i for almost a decade. I respectfully offer my testimony while remembering that Hawai'i has more than 6,000 people behind bars – more than 2,000 of whom are serving their sentences abroad, thousands of miles away from their loved ones.

HB 466 HD1 requires a hospital, including a public health facility, to provide information and emergency contraception to a sexual assault victim; requires training; includes penalties.

Community Alliance on Prisons stands in strong support of this long over-due health measure. Many of the women in prison are survivors of sexual assault and abuse who, unfortunately, turned to drugs to dull their pain, which then landed them in the jaws of the criminal processing system.

Emergency contraception is a safe and effective means of reducing the risk of pregnancy after unprotected sex. Women who have been sexually assaulted have a particularly compelling need for quick and easy access to emergency contraceptives. Although there is a rape protocol in existence through trained physicians and specific hospitals, the treatment is a *protocol*, not a law. It is not even a regulation. This protocol amounts to a recommendation, not a mandate and can be withdrawn or weakened at any point. All of a patient's health care needs should be met in the emergency room, especially those patients who have been violated by rape.

A fear years ago Healthy Mothers, Healthy Babies conducted a survey and discovered that 90 percent of the ER's do not dispense EC. This means that for those victims who chose not to call the police or the rape crisis centers, there will be unintended pregnancies resulting from rape. Women, who have suffered will be faced with an agonizing decision about what to do. For women who have just endured the worst trauma of their life because of the rape, they will now have to endure the trauma of wondering whether they could face an unwanted pregnancy. This is inhumane, in our view. A recent survey by Q Mark revealed that 84% of respondents agreed that all hospitals should provide all rape victims with medically accurate information about the potential of pregnancy as a result of the rape and that the victims should be offered EC to prevent pregnancy. Only 14 percent felt that religious based hospitals should not be required to offer EC; 2 percent were undecided. Please support women and pass HB 466 HD1.

Mahalo for this opportunity to testify.



**Oahu County Committee ... "Democracy at Your Doorstep"**

24 January 2008

To: Rep Tommy Waters, Chair,  
Rep. Blake Oshiro, Vice Chair, and  
Members of the House Judiciary Committee

From: Debi Hartmann  
Deputy Chair, O'ahu County Committee  
Democratic Party of Hawai'i

Re: Testimony in Support of HB466

Thank you for allowing me to testify today in support of HB466. The O'ahu County Committee held its convention on May 6, 2006 and passed Resolution Number 06-09, **Supporting Emergency Contraception for Survivors of Sexual Assault**. Which states in part

"... the Democratic party believes that when a victim of a crime, any crime, that results in physical injury, seeks or is assisted in seeking, medical assistance for those injuries, the expectation is that the system responding do everything that is medically necessary for that individual; and

**Whereas**, rape or sexual assault, is a crime that is a violent, traumatic and intimate violation, in which all sense of personal control and decision-making is ripped apart and it is important therefore that the survivor's sense of personal control and decision-making capacity be assured in her treatment protocol; and

**Whereas**, all survivors of sex assault must be informed about the procedure being followed and provided information critical to their decisions regarding any injuries they may have, potential to sexually transmitted infections, evidence that the survivor may have been given substances without her knowledge prior to the assault, or the risks of possible pregnancy; ..."

Surveys have demonstrated (2002 Healthy Mothers, Healthy Babies) that less than 10% of the hospitals statewide could provide EC access to the caller within the 72 – window. It has also been learned that 78% of women feel their hospital should provide EC for anyone who has been sexually assaulted.

Therefore, "the O'ahu County Committee of the Democratic Party supports the Emergency Contraception for survivors of sexual assault and the passage of legislation that assures that hospitals uniformly counsel sexual assault survivors and if requested, provide EC."

Again, thank you for allowing us to testify on this important issue.

**A JOINT LEGISLATIVE EFFORT**

E-Mail to: [JUDtestimony@Capitol.hawaii.gov](mailto:JUDtestimony@Capitol.hawaii.gov)  
Regarding: Committee on Judiciary  
Hearing on: January 25, 2008 @ 2:00 p.m. in room 325

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**Date:** January 24, 2008

**To:** House Judiciary Committee  
The Honorable Tommy Waters, Chair  
The Honorable Blake Oshiro, Vice Chair

**From:** Kelly M. Rosati, JD  
Executive Director, Hawaii Family Forum  
Lobbyist, Roman Catholic Church in the State of Hawaii

**Re:** Strong Opposition to HB 466 HD1 Relating to Health  
Unless a religious exemption is included.

Honorable Chair and members of the House Judiciary Committee, I am Kelly Rosati, representing both the Hawaii Family Forum and the Roman Catholic Church in the State of Hawaii. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in Hawaii, which under the leadership of Bishop Larry Silva, represents over 230,000 Catholics in Hawaii.

**GOVERNMENT COMPULSION TO VIOLATE RELIGIOUS BELIEFS**

Because of its religious tenets, St. Francis Healthcare System does not provide abortion services, including "emergency contraception" which may induce early abortion. While it is true that the former St. Francis hospitals are now the Hawaii Medical Centers (HMCs), there are two crucial legal items that merit your attention.

**First, St. Francis still owns the land upon which the HMCs operate.**

**Second, the legal relationship between HMC and St. Francis is governed by a contract binding HMC to operate the hospitals in a manner consistent with Catholic ethical and religious directives.**

Those directives prohibit complicity in the termination of life, beginning at the moment of conception. Emergency contraceptives sometimes work post-fertilization, resulting in the termination of the new young life and the ending of the pregnancy. This violates a core religious directive. Passage of HB 466 HD1 would use government force to compel St. Francis to allow 'emergency contraceptives' which can act as abortifacients – something that would be directly contrary to St. Francis' religious beliefs in the sanctity of human life.

**PAGE TWO**

**FIRST AMENDMENT ISSUES AT STAKE - TROUBLING LEGAL PRECEDENT**

One need not support the position of St. Francis on emergency contraception to support its First Amendment rights to serve the community in a manner consistent with its religious beliefs.

If the government can compel that which religion prohibits in this instance, there is no legal or public policy justification left to stop this Legislature from requiring religious hospitals to perform surgical abortions. Uniformly, however, legislators tell me they would oppose such a mandate as a terrible violation of religious freedom. Yet, the underlying legal principles are identical.

**DIVERSITY & TOLERANCE ACHIEVED WITH A RELIGIOUS EXEMPTION**

St. Francis and HMC are not suggesting other health care facilities adopt their practices. Nor are they suggesting the government codify Catholic medical practice protocols. We simply request the same courtesy and consideration. **We respectfully suggest the legislature can achieve its purposes and balance religious liberty, tolerance and diversity of opinion by granting a religious exemption.**

Years ago, we worked with the proponents on an exemption that achieved their overall objectives while respecting the religious rights of religious institutions. Unfortunately, certain of the proponents with an extreme position were willing to accept no law rather than accommodate the sincerely held religious differences of other important members of our community. We appeal to you to reject such an extreme position and include a religious exemption.

Finally, we also believe, along with St. Francis that the "scope of services" provided by any licensed health care institution is the prerogative of that organization's administration and its medical staff. It is that institution's right as a business and a health care provider to determine which services should be made available via its programs and facilities. In addition, it is that organization's administration and medical staff that adopts medical protocols for services to be rendered.

For all these reasons, we urge you to oppose HB 466 HD1. Mahalo for your kind consideration.

**Testimony on HB 466 / HD1  
RELATING TO HEALTH**

**COMMITTEE ON JUDICIARY  
Representative Tommy Waters, Chair  
Representative Blake Oshiro, Vice Chair**

**Friday, January 25, 2008, 2:00 p.m.  
Conference Room 325, State Capitol**

My name is Sharon Ferguson-Quick and as Executive Director of the Hawaii State Commission on the Status of Women, I'm providing written testimony on the measure Relating to Health (HB 466 / SB 1110). I strongly support this bill in its effort requires a hospital, including a public health facility, to provide information and emergency contraception to a sexual assault victim.

Hawaii Revised Statute 367, establishing the Hawaii State Commission on the Status of Women in 1964, has laid out as its primary purpose to ensure equality for women and girls in the State of Hawaii by acting as a catalyst for change through advocacy, education, collaboration and program development and research. The Commissioners have defined a set of priorities to fulfill this mandate. This bill touches on a number of areas of importance as established by the Commissioners. Two of the priorities are Women's Health and Women's Safety.

It is startling when we come face to face with the statistics on rape in this country. More than 300,000 women are sexually assaulted each year in the U.S. Of these an estimated 25,000 will become pregnant as a result. About 22,000 of these pregnancies could be prevented if all women who were raped used EC. (Stewart & Trussell, 2000) The physical abuse and violation of a rape traumatizes a woman in ways that will take years to overcome and impacts every area of her life. To add an unnecessary pregnancy to that life altering abuse is unconscionable. Emergency Contraceptives (EC) is a safe and effective means of reducing the risk of pregnancy after unprotected intercourse. Yet many hospitals in our own community neglect their responsibility to sexual assault survivors by not providing them with medically accurate fact based information on pregnancy risk after an assault and the Emergency Contraceptive that is available to reduce it. This is even more amazing in the face of overwhelming support in the community for offering EC to women following a sexual assault. In one survey of registered voters, 75% favored requiring all hospitals to make EC available to women who have been raped.

We do the women of this community a grave disservice if we do not demand and ensure Emergency Contraceptives are available and easily accessible in our emergency rooms. I strongly support this bill and the protection it provides women in our states.

Sharon Ferguson-Quick  
Executive Director  
Hawaii State Commission on the Status of Women  
808-586-5757  
Sharon.Y.Ferguson-Quick@hawaii.gov

January 24, 2007

Committee: House Judiciary  
HB 466 HD 1: Relating to Health

Honorable Chairperson Waters and Members of the House Judiciary Committee:

My name is Jackie Berry, Executive Director for Healthy Mothers Healthy Babies of Hawaii (HMHB). HMHB is a statewide coalition of public and private agencies and individuals committed to the improvement of maternal and infant health status in Hawaii through education, coordination and advocacy. HMHB is testifying today in support of HB 466 HD 1 to ensure that victims of sexual assaults are given information about emergency contraception when they receive medical care at a hospital for sexual assault, and that they have immediate access to emergency contraception if they request it.

Emergency Contraception (EC) is a safe and effective, FDA-approved method of preventing unintended pregnancy following unprotected sex. Medical research strongly indicates that the sooner EC is administered post-exposure, the better the chance of preventing an unintended pregnancy. EC will not terminate a pregnancy, if a woman is already pregnant. The American College of Emergency Physicians (ACEP) and the American College of Obstetricians and Gynecologists (ACOG) concur the EC counseling and treatment should be offered to all victims of sexual assault, if it is determined that they are at risk for pregnancy.

The hospital is often the first point of medical contact for victims of sexual assault, and those hospitals should be providing the full range of rape counseling and treatment services to those who seek care. Women have a right to receive all information on treatment options for their health and well-being. Facilities that do not provide access to this information and care are depriving their patients of the right to make an informed decision for themselves regarding preventing an unintended pregnancy that may result from rape.

There are still significant barriers to accessing EC in Hawaii. Even though the FDA has approved emergency contraception, Plan B, for over-the-counter use- the pharmacy is not the optimal place to receive rape-related education and care. A woman who has been assaulted should instead receive trauma-specific counseling and treatment, including EC, when they enter any Hawaii hospital for her initial care and follow-up services.

Thank you for the opportunity to testify.

## JUDtestimony

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**From:** Elle Cochran [ellecochran@gmail.com]  
**Sent:** Thursday, January 24, 2008 1:35 PM  
**To:** JUDtestimony  
**Subject:** Testimony

This is Testimony relating to HB466HD1 & SB1067,  
I am in total support of Emergency Contraceptives (EC) being used in all Hospitals (including Catholic).  
I believe a victim in a sexual assault should have the option of using an EC if choose to. Studies show  
that EC are safe and effective.

Can you imagine the trauma of having a child due to these tragic circumstances? EC would prevent such  
happenings.

Mahalo for your consideration,  
Elle Cochran  
President  
Maui Unite



# PLANNED PARENTHOOD® OF HAWAII

1350 S. King Street • Suite 309 • Honolulu, Hawaii 96814 • Phone: (808) 589-1156 • Fax: (808) 589-1404

January 23, 2008

To: Rep. Tommy Waters, Chair and Rep. Blake Oshiro, Vice Chair and  
Members of the House Committee on Judiciary

From: Annelle Amaral, Director, Public Affairs, Planned Parenthood of Hawaii

Re: Testimony in Support of HB 466 HD1 Rel. to Health

Thank you for allowing me to testify today, in support of HB 466 the purpose of which is to require hospital emergency rooms to provide medically accurate information on emergency contraception to survivors of sex assault and if requested, to offer EC. The bill also has enforcement and penalty provisions.

This bill is not new to this Committee. You have heard the reasons for this bill for the past five years and nothing much has changed, except that victims of sex assault continue to go to emergency rooms and they often are not counseled on the fact that pregnancy may be a result of this assault and the emergency contraception can be used to avoid a pregnancy.

## **Amendments To Past Legislation:**

In the past, we tried to respond to the veto message by the Governor in 2003, first, by addressing the penalties to delete reference to loss of license and we have lowered the fine from \$5000 to \$1000 per sexual assault survivor who is denied medically accurate information or who is not offered EC. In addition, the penalty section provides that "...after two consecutive violations, ...information of the violations to the body or agency that determines issuance of state funding...for the termination of all state funds to the facility..."

We have also addressed the comments by the Attorney General in a memo dated April 19, 2004 regarding a hearing for non-compliance and notice of the impending act of termination of state fund by adding written notice requirements in the "Enforcement" (a) section and hearing requirements in (b) section in conformity with chapter 91.

We did not add language for a "religious exemption" for a number of reasons. The first reason is that we believe this is a patient's rights issue...

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Kailua-Kona, HI 96740  
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140 Hooohana Street  
Suite 303  
Kahului, Maui, HI 96732  
(808) 871-1176

(A Maui United Way Agency)



## **Rights of Patients:**

When a victim of a crime, any crime that results in physical injury seeks or is assisted in seeking medical assistance for those injuries, the expectation is that the system responding do everything that is medically necessary for that individual. Sexual assault, or rape, is a crime that is a violent, traumatic and intimate violation, in which all sense of personal control and decision-making is ripped apart. It is important therefore that her sense of personal control and decision-making capacity be assured in her treatment protocol. She must be informed about each procedure being followed and provided information critical to her decisions regarding any injuries she may have, potential to sexually transmitted infections, evidence that she may have been given substances without her knowledge prior to the assault, or the risks of possible pregnancy. Just as for any other health care procedure, no providers of any kind of care have the right to make decisions for her about healthcare treatment related to the rape, or withhold information that would allow her to make an informed decision.

The second reason for not including a religious exemption is the issue of public funding:

## **Federal Requirements hospitals must meet to receive funding:**

Hospitals must meet many requirements—termed “conditions of participation”—in order to participate in the federal Medicare program and to be reimbursed under the Medicaid program. These conditions of participation are meant to ensure that patients’ rights are respected and they receive medically appropriate care.

Hospitals that limit patient counseling and the provision of services to ones that conform to religious teachings may not be in compliance with some of the existing conditions of participation. For example, under the conditions of participation, hospitals are required to honor a patient’s right to make informed decisions regarding his or her medical care.

Hospitals may also be violating the conditions of participation if they do not provide EC to sexual assault victims treated in the emergency room. Regulations require hospitals qualified as Medicare and Medicaid providers to “meet the emergency needs of patients in accordance with acceptable standards of practice.”<sup>1</sup> Similarly, participating hospitals are required to “have pharmaceutical services that meet the needs of the patients.”

In addition, failure to counsel rape victims about the availability of EC is increasingly seen as a violation of medical standards of care. In an article published in the *American Journal of Public Health*,<sup>2</sup> a physician’s failure to counsel a rape victim about emergency contraception is described as a practice that is “tantamount to abandonment” and “violates the obligation to act in her best interest and violates her right to give an informed consent to treatment.”

The third reason for our opposition of a religious exemption or “refusal clause” is:

## **Legal Issues Regarding inclusion of “refusal clauses”**

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<sup>1</sup> 42 C.F. R. § 482.13, 25 and 55.

<sup>2</sup> Smugar, S. , Spina, G. & Merz, J. “Informed Consent for Emergency Contraception: Variability in Hospital Care of Rape Victims,” *American Journal of Public Health*, 90:1372 (2000).

The Supreme Court clearly held that the Constitution, “does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability,” on the ground that the law conflicts with his or her religious beliefs.<sup>3</sup> In other words, the Free Exercise Clause of the First Amendment is not offended as long as limiting the exercise of religion is not the object of the statute, but merely the incidental effect of a generally applicable and otherwise valid provision.

The purpose of the proposed legislation is to provide rape victims the most comprehensive and compassionate care according to medical standards. HB 466 would require that all hospitals in Hawaii provide accurate medical information about EC and administer the same, upon the victim’s request. Although some may assert a violation of the Free Exercise Clause, the statutory compulsion to inform a victim about and to administer EC in contradiction with a religious belief would be unintentional and incidental. Therefore, we believe, this legislation would not offend an individual’s or an institution’s religious freedom and does not necessitate a “refusal clause”.

If enacted, HB 466 could likely be upheld because historically the Court has not struck down state statutes solely based on an individual’s or institution’s freedom of religion. Furthermore, the Supreme Court has stated that, “not all burdens on religions are unconstitutional, for it is true that activities of individuals, even when religiously based, are often subject to regulation by the States in the exercise of their undoubted power to promote the health, safety, and general welfare.”<sup>4</sup> Therefore the State of Hawaii has the authority to enact the proposed legislation inherent in its police powers, despite religious objections.

## **Support for EC**

Widespread access and availability of EC for all women as a means of reducing unintended pregnancy is endorsed by many groups, including the American Medical Association and the American College of Obstetricians and Gynecologists (ACOG, 2001; AMA, 2000). There is overwhelming support for offering EC to women following a sexual assault. In a recent statewide survey of voters, conducted by Planned Parenthood of Hawaii through the services of QMark, a research and polling company, 84 percent of the respondents stated that victims of rape should receive medically accurate information and should be offered EC. Only 14 percent felt that a religious hospital should not be required to provide information or EC.

It is unconscionable that health care systems and practitioners unnecessarily place women who have been sexually abused at risk of the additional trauma of an unwanted pregnancy. EC has been shown to be safe and effective, and it is unethical to withhold it for any reason from a woman who has been raped. Guidelines must be established and enforced so that hospitals uniformly counsel sexual assault survivors and provide them with EC.

## **ACLU’s Evaluation of Religious “refusal clauses”**

ACLU’s Reproductive Freedom Project developed a framework for evaluating proposed “refusal clauses”,<sup>5</sup> such as the exemption being sought by members of the faith community from what would otherwise be the state mandate to offer EC to rape victims. The ACLU framework uses two key tests to determine whether an exemption is appropriate:

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<sup>3</sup> *Employment Div. v. Smith*, 494 U.S. 872, 879 (1990)

<sup>4</sup> *Koolau Baptist Church v. Dept. of Labor and Industrial Relations*, 68 Haw. 410, 718 P.2d 267 (1986)(citing *United States v. Lee*, 455 U.S. 252 (1982); *Wisconsin v. Yoder*, 406 U.S. 205 (1972))

<sup>5</sup> *Religious Refusals and Reproductive Rights*, ACLU Reproductive Freedom Project, 2002.

- Does a refusal place burdens on people who do not share the beliefs that motivate the refusal? The more burdens fall on such people, the less acceptable is any claimed right to refuse.
- Is the objector a sectarian institution engaged in religious practices, or is it instead an entity—religiously affiliated or not—operating in a public, secular setting? The more public and secular the setting, the less acceptable an institution’s claimed right to refuse.

We do not know of a hospital that meets either of the ACLU tests. Because a hospital serves the general public needing medical services, and not just observant of a particular religion, refusal by these hospitals to offer EC would burden rape victims who do not share the hospitals’ religious beliefs about EC. Clearly, these hospitals also operate in the public sphere, by opening their doors to the general public, holding state hospital licenses and accepting millions in public funding from Medicaid, Medicare and disproportionate share funds.

### **Facts About Emergency Contraception:**

There is a great deal of misinformation about emergency contraception (EC). EC is a safe, effective back-up birth control method that can prevent pregnancy after unprotected intercourse. The most common form of EC is emergency contraceptive pills, which contain high dosages of the same hormones found in daily birth control pills- estrogen and progestin. When taken within days of unprotected intercourse, EC can reduce the risk of pregnancy by up to 89 percent.<sup>6</sup>

EC should not be confused with Mifeprex®, also known as RU-486. EC and Mifeprex® are completely different drugs. EC helps to prevent pregnancy, while Mifeprex® terminates an early pregnancy. In fact, EC helps to reduce the need for abortion. Researchers estimate that roughly half of the unintended pregnancies in the U.S. could be prevented by widespread awareness and use of EC. In 2000 alone, use of EC prevented more than 50,000 abortions.<sup>7</sup>

With respect to rape related pregnancy, the rate is approximately 5.0 percent per rape among victims of reproductive age (aged 12 to 45). Among adult women an estimated 32,101 pregnancies result from rape each year. Among 34 cases of rape-related pregnancy, the majority occurred among adolescents and resulted from assault by a known, often related perpetrator. Only 11.7 percent of these victims received immediate medical attention related to the rape and 47.1 percent received no medical attention related to the rape. A total of 32.4 percent of these victims did not discover they were pregnant until they had already entered the second trimester; 32.2 percent opted to keep the infant whereas 50 percent underwent an abortion and 5.9 percent placed the infant for adoption; and additional 11.8 percent had spontaneous abortion.<sup>8</sup>

### **Conclusion:**

We hope that this year, this Legislature will provide the needed protection to victims of a violent assault through the passage of this legislation.

<sup>6</sup> Task Force on Postovulatory Methods of Fertility Regulation. Randomised controlled trial of levonorgestrel versus the Yuzpe regimen of combined oral contraceptives for EC. *The Lancet* 1998, 352: 428-433.

<sup>7</sup> Jones RK, Darroch JE, Henshaw, SK. Contraceptive Use Among U.S. Women Having Abortions in 2000-2001. *Perspectives on Sexual and Reproductive Health* 2002, 34: 294-303.

<sup>8</sup> Holmes, M., Resnick, H. , Kilpatrick, D. , Best, C. “Rape-Related pregnancy: Estimates and descriptive characteristic from a national sample of women. “ *American Journal of Obstetrics and Gynecology*. Vol. 175, No. 2 August, 1996.

The public policy issue here is the fullest and best care to victims of the violent crime of sexual assault. The public policy is the assurance all hospital emergency room personnel are properly trained in handling the special needs of these victims. The public policy here is a patient's right to self-determination that arises from the fact that a female of sound mind has the right, in the exercise of control over her own body, to determine whether or not to submit to lawful medical treatment.

We thank you for allowing us to testify today and are available to answer any questions you may have of our testimony.

# PLANNED PARENTHOOD® OF HAWAII

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January 24, 2008

House Judiciary Committee

ATTN: Representative Tommy Waters, Chair  
Representative Blake K Oshiro, Vice Chair  
Hawaii State Capitol  
Honolulu, HI 96813

Re: In support of House Bill 466- relating to Health  
Date of Hearing: January 25, 2008  
Time of Hearing: 2:00 PM  
Place: Conference Room 325  
Number of Copies: 40

Dear Representatives Waters and Oshiro and committee members:

Planned Parenthood of Hawaii supports HB 466 which would require a hospital, including a public health facility, to provide information and emergency contraception to a sexual assault victim.

This bill ensures that victims of sexual assault receive the maximum level of care during a time of extreme trauma. Quick and easy access to emergency contraception fulfills an undeniable need for women who have been sexually assaulted. Hospitals and public health facilities are duty bound to provide options to diminish the fear of a possible pregnancy resulting from their assault.

The need for emergency contraception in these extreme cases goes without saying when more than 300,000 women are sexually assaulted each year in the United States. It is estimated that 25,000 pregnancies will result from these sexual offenses, of these pregnancies 22,000 could be prevented if women who were raped utilized emergency contraception. EC is the answer; it is a safe and effective measure in reducing the risk of pregnancy after unprotected sex.

Furthermore, the urgency with which such safe guards be put in place is apparent in the February 2002 survey of all emergency rooms at health care facilities statewide. This survey conducted by Healthy Mothers, Healthy Babies, found that 2 out of 20 emergency rooms could provide EC within the 72 hour time frame where EC is effective. The sooner emergency contraception is taken the more effective it is, therefore, the immediacy of administering EC becomes paramount. ER's can be that front line defense for women who have been sexually assaulted.

Finally, all women have the right to be provided with written and oral information about emergency contraception that is medically and factually accurate, particularly in the case of sexual assault victims, the right to be provided with the option to receive EC at the hospital should never be a privilege, but a right, a guarantee of health. It would be unethical for EC to be withheld for any reason from women who have been raped.

Planned Parenthood of Hawaii supports passage of HB 466.

Sincerely,

Sonia Blackiston  
Director of Education and Training  
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(A Maui United Way Agency)

Date: January 25, 2008

To: The Honorable Tommy Waters, Chair  
The Honorable Blake K. Oshiro, Vice Chair  
Members of the House Committee on Judiciary

From: Adriana Ramelli, Executive Director  
Sex Abuse Treatment Center  
Kapi'olani Medical Center for Women and Children

RE: Support for HB 466/HD1  
Emergency Contraception for Sexual Assault Victims

Good afternoon Representatives Waters and Oshiro and members of the House Committee on Judiciary. My name is Adriana Ramelli and I am the Executive Director of the Sex Abuse Treatment Center (SATC), a program of the Kapi'olani Medical Center for Women & Children (KMCWC), an affiliate of Hawaii Pacific Health.

The SATC supports HB 466/HD1 which requires all hospitals that provide emergency care to female sexual assault victims to provide information on emergency contraceptives and, if the victim so chooses, make it available to them. This sound and compassionate legislation demonstrates a women's right to protect herself against an unwanted pregnancy resulting from a sexual assault.

Sexual assault is a horrific act of violence; and following an attack, women are left to cope with the raw painful emotions of a situation that was forced upon them. In addition, these women are forced to cope with and manage the many physical consequences of sexual violence. An unwanted pregnancy is one such example of these many physical consequences. Every year, approximately 300,000 women are raped and about 25,000 women of them become pregnant as a result of the sexual assault (Steward, Russell American Journal of Preventive Medicine Nov. 2000).

Victims of sexual assault should have the right to access therapeutic and medical care following an assault as well as the right to determine their own course of action after an event that stripped them of all of their control.

The SATC is a community program designed to support the needs of victims and is available to them following an assault. The KMCWC is the designated hospital for sexual assault victims to receive a comprehensive medical-legal examination. This examination entails the detection and treatment of injuries, collection of legal evidence, testing for sexually transmitted diseases, and pregnancy testing. If a victim is concerned about or at risk for an unwanted pregnancy, the examining physician will offer information about and discuss the option of prescribing the emergency contraceptive pill.

Medical Centers on Oahu are aware of the forensic medical services of the SATC and do refer victims to the KMCWC Emergency Department for the comprehensive examination. This system works when victims want the comprehensive forensic examination services of the SATC. However, not all choose this method of care and may be concerned only about becoming pregnant from the assault.

If this is the case, the system works when a victim can walk into any emergency room, be evaluated for the risk of pregnancy, and offered the option of emergency contraception.

Offering emergency contraception is also a time-sensitive issue. The medication needs to be administered within 72 hours of the sexual attack to be effective. It is not uncommon for victims to delay seeking immediate medical care because the realities of a sexual assault are often too painful to face. In addition, it is not uncommon for sexual assault victims to be faced with transportation issues and be forced to seek care for the unwanted pregnancy at a medical facility nearest their home.

The passage of HB 466/HD1 will promote sound public policy and demonstrates compassion and safety for sexual assault victims. Most importantly, it demonstrates a woman's right to protect herself against an unwanted pregnancy from a sexual assault.

Thank you for this opportunity to testify.





St. Francis Healthcare System  
of Hawaii

Email To: Judiciary Committee ~ JUDtestimony@capitol.hawaii.gov  
For House Committee on Judiciary Hearing  
January 25, 2008, 2:00 p.m., Conference Room 325, 5 copies.

**HOUSE COMMITTEE ON JUDICIARY**

Representative Tommy Waters, Chair

Representative Blake K. Oshiro, Vice Chair

**St. Francis Healthcare System of Hawaii does not support HB466, HD1  
"Relating to Health" (Emergency Contraception)**

St. Francis opposes HB466, which requires hospitals to provide emergency contraception to sexual assault victims when requested.

Because of its religious tenets, St. Francis Healthcare System does not provide birth control or abortion services. Although St. Francis no longer operates its two medical centers, the Sisters continue to maintain its religious tenets and therefore, included these tenets as a condition of the sale and lease of the land under the two medical centers. Hawaii Medical Center has agreed to comply with the Ethical and Religious Directives for Catholic Health Care Services.

St. Francis urges this committee to not pass this legislation.

Sister Agnelle Ching  
Chief Executive Officer  
St. Francis Healthcare System



Jeanne Y. Ohta

1016 A Hind Iuka Drive  
Honolulu, HI 96821

January 25, 2008

To: Representative Tommy Waters, Chair  
Representative Blake K. Oshiro, Vice Chair  
And Members of the House Committee on Judiciary

From: Jeanne Ohta

Re: HB 466 HD1 Relating to Health  
Hearing: January 25, 2008, 2:00 p.m., Conf. Rm. 325, 5 copies

Position: Strong Support

Good afternoon, I am Jeanne Ohta, testifying in strong support of HB 466 HD1, Relating to Health which requires emergency contraception information to be provided to survivors of sexual assault. This bill is also supported by the Hawaii Women's Coalition and is part of the coalition's 2008 Legislative Package.

Emergency Contraceptives (EC) is a safe and effective means of reducing the risk of pregnancy after unprotected intercourse. Women who have been sexually assaulted have a particularly compelling need for quick and easy access to EC.

This bill merely requires that standards of emergency medical care established by the American Medical Association be followed. The standard of care requires that female victims of sexual assault be counseled regarding the risk of pregnancy and be offered emergency contraception.

Widespread access and availability of EC for all women as a means of reducing unintended pregnancy is endorsed by many groups, including the American Medical Association and the American College of Obstetricians and Gynecologists (ACOG, 2001; AMA, 2000).

There is overwhelming support for offering EC to women following a sexual assault. One survey found that 78 percent of women feel their hospital should provide EC for anyone who has been raped (Catholics for Free Choice, 2000). A survey of registered voters conducted for Planned Parenthood Action Fund in June 2001 confirmed these findings: three of four voters favored requiring all hospitals to make EC available to women who have been raped.

EC has been shown to be safe and effective, and it is unethical to withhold it for any reason from a woman who has been raped. All hospitals should provide emergency care to sexual assault survivors with written and oral information about EC that is medically

and factually accurate. In addition, all sexual assault survivors should be provided an option to receive emergency contraception at the hospital.

Many hospitals neglect their responsibility to offer EC to sexual assault survivors as an option for reducing the risk of pregnancy. Catholic hospitals have a deplorable record of providing EC to sexual assault survivors.

Emergency contraception should be provided immediately at every hospital to any sexual assault survivor who requests it, including the provision of the initial dose, which the sexual assault survivor can take at the hospital, as well as any appropriate subsequent dosage as is medically prescribed, necessary, or required.

Providing EC to survivors of sexual assault is good medical practice, regardless of a hospital's religious affiliation. The women of Hawaii deserve a standard of medical care that is NOT dictated by religious beliefs. Please do not allow religious interference in the medical care of sexual assault survivors.

In the best interest of the women of Hawaii, I urge you to pass HB 466 HD1. Thank you for this opportunity to testify.