

# SB2928

**Measure Title:**  
RELATING TO THE RIGHT OF CONSCIENCE.

**Report Title:**  
Healthcare Providers; Right of Conscience

**Description:**  
Establishes a right of conscience for healthcare providers, institutions, and payers who do not want to participate, provide, or pay for medical services that violate their conscience, including abortions, artificial birth control, artificial insemination, assisted reproduction, human cloning, euthanasia, human embryonic stem cell research, fetal experimentation, physician assisted suicide, and sterilization.

**Introducer(s):**  
GABBARD

**Current Referral:**  
HTH, JDL

**A JOINT LEGISLATIVE EFFORT**

E-Mail to: [testimony@Capitol.hawaii.gov](mailto:testimony@Capitol.hawaii.gov)  
Regarding: Senate HTH hearing  
Hearing: February 13, 2008 @ 1:25 p.m. in room 016

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**Date:** February 12, 2008

**To:** Senate Committee on Health  
The Honorable David Ige, Chair  
The Honorable Carol Fukunaga, Vice Chair

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

**Re:** **Strong Support for SB 2928 Relating to the Right of Conscience**

Honorable Chair and members of the Senate Committee on Health, 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 210,000 Catholics in Hawaii.

We want to thank the Committee for hearing this bill, which can provide the vehicle for an important public dialogue in our state regarding the increasing tension between rights of conscience and requirements to participate in certain medical procedures and processes that violate one's conscience.

By way of background, Hawaii is among 45 states that protect the civil rights of certain professionals who refuse to participate in abortion. That right must be preserved and expanded given the expanding nature of controversial medical technologies.

Federal law (Hyde-Weldon Conscience Protection Amendment, 2004) provides that no federal, state or local government agency or program that receives federal health and human services funds may discriminate against a healthcare provider because the provider refuses to provide, pay for, provide coverage of, or refer for abortion.

**PAGE TWO**

We note section 2 of SB 2928 references physician-assisted suicide, which currently is a criminal offense under Hawaii's penal code. However, there are those who seek to legalize physician-assisted suicide and so rights of conscience protection measures offer sound public policy to cover a range of "medical procedures" from which providers' civil rights are accommodated.

SB 2928 is consistent with Hawaii's tradition of diversity, tolerance and accommodation. The rights of conscientious objectors are protected while no other 'rights' are jeopardized. Just because one conscientious objector refuses to dispense abortion pills, as an example, doesn't mean there aren't dozens more health care providers without the same conscientious objection. As such, from a practical standpoint, concerns about access are addressed.

For years, there has been an attempt to compel, by government mandate, a local religious hospital into dispensing abortifacient pills in violation of their religious and ethical guidelines and directives. Thankfully, to date, this Legislature has not seen fit to pass that bill into law, but the effort continues up to the present session. We simply must reach an accommodation in this area and face the reality that a sizable minority of Hawaii's healthcare providers has conscientious objections to being forced to participate in medical practices that destroy human life.

We believe that conscientious objectors must treat all patients with dignity and respect and we don't believe there is evidence in Hawaii of anyone acting to the contrary.

In sum, SB 2928 provides an important tool for discussion of a growing issue that will not fade anytime soon. Please show tolerance for the diversity of views among Hawaii's healthcare providers and allow the discussion to continue by moving this vehicle forward.

Mahalo for your kind consideration.



HAWAII  
WOMEN  
WORK!

AN AFFILIATE OF THE  
NATIONAL NETWORK  
FOR WOMEN'S  
EMPLOYMENT

SENATE Health Committee  
Wed, Feb 13, 2008  
1:25 pm  
1 copies to Committee Clerk Rm 215

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Date: February 11, 2008

TO: SENATE HEALTH Committee  
Sen. David Ige, Chair  
Sen. Carol Fukunaga, Vice Chair

From: Teresa Bill

RE: **STRONGLY OPPOSE SB 2928**, Re: Right of Conscience

Wed. Feb. 13, 2008 1:25 p.m.  
State Capitol Conference Room 016

I am Teresa Bill, testifying **in strong opposition to SB 2928**, on behalf of Hawai'i WomenWork! which is a member of the Women's Coalition.

I am certain that others will point out how broad the language in SB2928 is and that it is unwieldy in its attempt to give every one and every institution, including "payers" (insurance providers) "protective rights" to limit their participation in and implementation of instances of medical care they disagree with.

I find it telling that the first of those medical services specifically listed in the bill are those pertaining to women's reproductive rights: "abortion, artificial birth control, artificial insemination, assisted reproduction..."

This bill includes a range of "medical services" that might elicit sympathy, but this bill intends to limit disciplinary actions against medical personnel who refuse to provide women with legal medical services. The long list of who qualifies as medical services providers from doctors to nurses, pharmacists, nurses' aides etc means that the appropriate care determined for a patient can be hijacked by a single individual in the chain of care.

If a medical care provider chooses not to provide medical service that are legal, dispensing birth control, for example, then that medical care provider should be subject to disciplinary action or discharge; certainly they should not be protected from such discipline. Providers who are reimbursed with any public funds, (I don't know what hospital doesn't receive public funds) must be held accountable to provide access to all legal medical services; not just those services they believe to be ethical.

Thank you for this opportunity to testify.



**St. Francis Healthcare System  
of Hawaii**

**FAX To: Senate Sergeant-At-Arms Office at 586-6659**

**The Honorable David Ige, Chair  
The Honorable Carol Fukunaga, Vice-Chair  
Senate Committee on Health**

**The Honorable Suzanne Chun-Oakland, Chair  
The Honorable Les Ihara, Vice-Chair  
Senate Committee on Human Services and Public Housing**

**Rc: Testimony in Support of S.B. No. 2928 - Relating to the Right of Conscience**

**Hearing: Wednesday, February 13, 2008, 1:25 p.m.  
State Capitol, Conference Room 016**

**Testifying: Myron L. Tong  
Administrator  
St. Francis Healthcare Foundation**

**The Honorable David Ige, Chair; The Honorable Suzanne Chun-Oakland, Chair; and Honorable Members of the Senate Committee on Health and Members of the Senate Committee on Human Services and Public Housing:**

**Thank you for the opportunity to testify in support of S.B. 2928, relating to Right of Conscience. I am Myron Tong, Administrator of St. Francis Healthcare Foundation. The Sisters of St. Francis are humbled and proud to have taken care of healthcare needs for the people of Hawaii since 1883. This year, they are celebrating their 125<sup>th</sup> anniversary and look to continue the mission and legacy of Blessed Marianne Cope.**

**Because of its religious tenets, St. Francis Healthcare System and its subsidiaries and affiliates are bound by the Ethical and Religious Directives for Catholic Health Care Services (ERDs). These directives provide the guiding principles for medical services. S.B. 2928 Right of Conscience provides relief for health care providers, institutions and payers to decline to counsel, advise, pay for, provide, perform, assist, or participate in providing or performing medical services that violate their conscience.**

**Once again St. Francis Healthcare System strongly supports this bill and urge its passage.**

**Thank you.**

**testimony**

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**From:** Andrew Gerakas [deaconandy@hawaii.rr.com]  
**Sent:** Tuesday, February 12, 2008 4:12 PM  
**To:** testimony  
**Subject:** SB 2928 Relating to the Right of Conscience

Testimony of Andrew J. Gerakas  
Senate Committee on Health  
Senator Daniel Y. Ige, Chair  
SB 2928  
February 13, 2008  
State Capitol Conference Room 016

Mr. chairman and members of the Senate Committee on Health I am submitting this testimony in support of SB 2928.

I am a retired state employee with a career in economic development, starting in the Territory of Hawaii as Deputy Director of the Economic Planning and Coordination Authority, as United Nations Director of Economic Development for Western Samoa and Economic Development Division Head for the Department of Economic Development and Tourism.

Outside of government, service to our community has been primarily centered in visiting the sick in hospitals and nursing homes for more than thirty years. In the course of this work I have not only ministered to patients, but hospital and nursing home staff as well. We are blessed in Hawaii to have many able and dedicated doctors, nurses and support staff.

I have had many discussions with patients and staff with regard to personal challenges and religious, philosophical and ethical views. We live in a country that respects and supports the rights of our citizens to live as their conscience dictates providing their actions are within the law and do no harm or threaten others.

A person should not be forced to receive or administer treatment that is contrary to that persons religious, philosophical or ethical beliefs. Such beliefs have greater weight than the economic consequences to the institution, which, properly managed, can be kept to a minimum.

SB 2928 reflects the heart and spirit of our country's constitution and our democratic way of life. I respectfully recommend that the Senate Committee on Health favorably report out this legislation.

Andrew J. Gerakas  
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No. of pages including this page: 1

DATE: February 12, 2008  
TO: Senator David Ige,  
Chair, Health Committee  
FACSIMILE NO. (808) 586-6659  
RE: SB 2928, Relating to the Right of Conscience  
Date of Hearing: 2/13/08  
Time of Hearing: 1:25 p.m.  
Conference room 016

Dear Senator Ige:

I am in favor of the passage of SB 2928, and I support said bill.

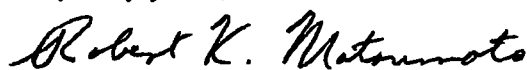
I am an attorney in private practice, and I have defended individuals who have decided to follow their individual conscience(s) in certain issues relating to civil rights.

Without the passage of SB 2928, I foresee lawsuits being filed by individuals and/or institutions who are forced to do or perform certain acts which violate their beliefs and consciences such as the dispensing of abortifacients in hospitals or pharmacies. Already on the U.S. mainland, there are numerous lawsuits filed by pharmacists and others because they are forced to dispense abortifacients.

Hawaii already has a long-standing tradition and practice of exempting hospitals and persons in participating in any abortion if to do would violate the consciences of such hospitals and persons. See HRS §453-16 (e), which has been in existence and unchanged since 1970.

Accordingly, I urge you to pass out of committee SB 2928.

Very truly yours,

  
Robert K. Matsumoto

Testimony of  
Frank P. Richardson  
Executive Director of Government Relations

Before:  
Senate Committee on Health  
The Honorable David Y. Ige, Chair  
The Honorable Carol Fukunaga, Vice Chair

February 13, 2008  
1:25 PM  
Conference Room 016

**SB 2928      RELATING TO THE RIGHT OF CONSCIENCE**

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on SB 2928 which establishes a right of conscience for healthcare providers, institutions, and payers.

**Kaiser Permanente Hawaii opposes this bill.**

First, we would like to express support for the intent of the legislature to protect the right of conscience for an individual health care provider. At Kaiser Permanente we recognize the need to address these concerns and have policy in place that permits employees to decline to participate in certain types of care for religious, ethical or cultural reasons. Such accommodation is made mindful of the need to protect patient safety.

We note that the right to conscience has already been addressed in Hawaii law. Section 327E-7 states, in part:

“(e) A health-care provider may decline to comply with an individual instruction or health-care decision for reasons of conscience. A health-care institution may decline to comply with an individual instruction or health-care decision if the instruction or decision is contrary to a policy of the institution which is expressly based on reasons of conscience and if the policy was timely communicated to the patient or to a person then authorized to make health-care decisions for the patient.”

Therefore, we are opposed to this bill because it unnecessarily expands what is already in the law. We do not know what impact these provisions will have on Kaiser’s compliance with



other statutory, regulatory, professional ethics, and accreditation requirements. For example, what will the implications be for Kaiser Foundation's ability to meet accreditation standards required by JCAHO, or the statutory and regulatory requirements enforced by the Department of Health's Office of Health Care Assurance, or on Kaiser's compliance with the requirements of the Hawaii Prepaid Health Care Act [Chapter 393, HRS], Hawaii Patient Rights & Responsibilities Act [Chapter 432E], and ERISA?

Consequently, before moving forward in the legislative process with SB2928, we recommend that the Legislative Auditor conduct a study on the impact of these provisions on health care institutions and health care payers. Further, we urge the Legislative Auditor to consult with:

- Joint Commission on the Accreditation of Healthcare Organizations (**JCAHO**)
- Hawaii Department of Health
- Centers for Medicare & Medicaid Services (CMS)
- U. S. Department of Labor
- Hawaii Department of Labor & Industrial Relations
- Hawaii Insurance Commissioner
- Other public sector and private regulatory and accrediting agencies

Kaiser is concerned about access to care for patients throughout the state and seeks to balance their needs with the rights of health care providers.

For these reasons, we urge you to hold SB 2928 and, instead, request a study by the Legislative Auditor. Thank you for your consideration.

**testimony**

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**From:** Robinson, Michael [MichaelR@kapiolani.org]  
**Sent:** Tuesday, February 12, 2008 7:26 PM  
**To:** testimony  
**Cc:** Sen. David Ige; Sen. Suzanne Chun Oakland; Pressler, Virginia MD  
**Subject:** SB3258\_SD1: Senate HTH and HSP Hearing (Wednesday - February 13, 1:25 pm) - Testimony in Support  
**Attachments:** SB3258\_SD1\_HTH\_HSP\_Relating to Medicaid Reimbursement\_HPH\_Testimony in Support\_Ginny Pressler.doc

**Testifier:** Virginia Pressler, MD, MBA  
EVP, Hawaii Pacific Health  
**Committee:** Senate Health, Human Services & Public Housing  
**Date:** Wednesday, February 13, 2008  
**Time:** 1:25 pm  
**Measure:** SB 3258 SD1 Relating to Medicaid Hospital and Long Term Care Reimbursements  
**Copies:** 1

**Michael J. Robinson | Executive Director Philanthropy & Government Affairs**  
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## PRO-FAMILY HAWAII

P.O. Box 25158

Honolulu, Hawaii 96825

Phone and Fax: (808) 396-6569

February 12, 2008

Testimony on SB2928  
Feb. 13, Room 016, 1:25 p.m.  
at Health Committee Hearing

Good afternoon, senators. My name is Daniel P. McGivern,  
president of Pro-Family Hawaii.

This bill relating to the right of conscience should be supported  
by everyone. What it really comes down to is this is a civil  
rights bill.

No one should be bound by any law that goes against his or her  
own conscience, his or her own moral judgment.

Pro-Family Hawaii urges support for this bill, with one  
stipulation--remove references to things which are not legal  
in Hawaii, such as human cloning, doctor-assisted suicide, etc.  
Instead, it could say any future law could not force a person  
to go against his or her own conscience.

This bill is not only for people of religious persuasion. It  
is for everyone, not forcing someone to participate in something  
which violates personal conscience.

Pro-Family Hawaii suggests adding two words in front of the bill:  
civil rights, relating to the right of conscience.

Thank you.



Committee: Committee on Health  
Hearing Date/Time: Wednesday, February 13, 2008, 1:25 p.m.  
Place: Room 016  
Re: *Testimony of the ACLU of Hawai'i in Opposition to SB 2928,  
Relating to the Right of Conscience*

Dear Chair Ige and Members of the Committee on Health:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in opposition to SB 2928, which establishes a right of conscience for healthcare providers, institutions, and payers who do not want to participate, provide, or pay for medical services that violate their conscience, including abortions, artificial birth control, artificial insemination, assisted reproduction, human cloning, euthanasia, human embryonic stem cell research, fetal experimentation, physician assisted suicide, and sterilization.

The ACLU of Hawai'i has a long, proud history of vigorously defending religious liberty and has been equally vigilant in our advocacy of reproductive rights.

#### **A BRIEF OVERVIEW OF FEDERAL REFUSAL CLAUSES**

Refusal clauses pertaining to certain reproductive health services swept the nation in the years following the Supreme Court's 1973 decision legalizing abortion in *Roe v. Wade*. Congress started the trend that same year when it passed legislation (sponsored by Senator Frank Church and known as the "Church Amendment") in reaction to a 1972 court order that had required a Catholic hospital to allow a sterilization procedure to be performed on its premises. The Church Amendment established that an individual's or entity's receipt of federal funds under certain public health programs is not a basis for requiring recipients with moral or religious objections to perform or assist in sterilization or abortion procedures, or to make facilities or personnel available for the performance of such procedures. The legislation also prohibits certain federally funded institutions from discriminating in employment, or in the extension of staff or other privileges, against any health care professional because the professional refuses to perform or assist in an abortion or sterilization procedure based on a religious or moral objection; because the professional does perform or assist in abortion or sterilization procedures in a separate setting; or because of the professional's religious or moral beliefs concerning these procedures.

In 1996, Congress adopted the Coats Amendment. The amendment prohibits the government from "discriminating" against medical residency programs or other entities that lose accreditation because they fail to provide or require training in abortion services.

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In 1997, Congress adopted new statutory requirements for the Medicaid program that, among other things, mandated that states inform patients about how to obtain covered services - including family planning services - that their Medicaid managed care organization did not provide. Congress made clear, however, that the new provisions did not require a Medicaid managed care organization to provide, reimburse, or cover any counseling or referral service to which the organization objects on moral or religious grounds.

In 1998, Congress passed a hard-fought provision that required health plans participating in the Federal Employees Health Benefits Program ("FEHBP") - which provides health insurance for federal employees - to cover prescription contraceptive drugs and devices.

Constitutional principles neither *require* nor *forbid* most refusal clauses. Nevertheless, legal principles are useful in constructing a framework for analyzing when an exemption is called for and what it should look like. Based in part on our study of the case law, the ACLU has identified two measures for evaluating refusal clauses. We consider first whether granting an exemption would impose burdens on people who do not share and should not bear the brunt of the objector's religious beliefs. Exemptions that impose little or no burden on others are more acceptable; exemptions that impose substantial burdens are less so. By "burdens," we mean to include obstacles to health care and other critical personal interests, but we do not mean to include the mere exposure of third parties to religious practices or the tax or other financial burdens that may result from permitting certain exemptions. We consider next whether the exemption protects the religious practices of pervasively sectarian institutions or instead protects institutions operating in the public sphere. Exemptions that insulate core religious functions are more acceptable than those that spill over into the secular world.

### ***Avoiding Burdens on Others***

In the reproductive health context, the risk of imposition on those who do not share the objector's beliefs is especially great when an employer, hospital, health plan, pharmacy, or other corporate entity seeks an exemption. The refusal of such institutions to abide by reproductive health mandates directly affects employees, patients, enrollees, and customers of diverse backgrounds and faiths. The law should not permit an institution's religious strictures to interfere with the public's access to reproductive health care.

The courts have repeatedly shown themselves wary of the imposition of an institution's religious beliefs on others. In *Catholic Charities v. Superior Court*, for example, the California Court of Appeal explained at length why the state was justified in adopting a narrow refusal clause that permitted only pervasively sectarian organizations - such as churches, religious orders, and some parochial schools - to refuse to include contraceptive coverage in health plans for their employees. A broader exemption, granting a right to refuse to Catholic Charities and other church-affiliated organizations that employ diverse workforces, would have meant "imposing the employers' religious beliefs on employees who did not share those

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beliefs." An expansion of the refusal clause would also have "undermine[ed] the anti-discrimination and public welfare goals of the prescription contraceptive coverage statutes."

Another court expressed similar concerns in *St. Agnes Hospital v. Riddick*. There, a board that oversees graduate medical education had withdrawn accreditation from a Catholic hospital's ob/gyn residency program because of several deficiencies, including the hospital's refusal to provide or otherwise allow its medical residents to obtain clinical training in contraception, sterilization, or abortion procedures. The hospital claimed that the withdrawal of its accreditation amounted to religious discrimination. The court rejected this claim, concluding that the state had more than sufficient reason to insist on comprehensive medical education despite the hospital's religious objection. These reasons included the public's "overwhelmingly compelling interest in . . . competently trained physicians" and the importance of preventing the hospital from "impos[ing] its Catholic philosophy on its residents, many of whom are not Catholic."

Laws that protect individual religious refusals offer important protections for health care professionals but may compromise the rights of patients unless adequate safeguards are included. There should be limits even to an individual health care provider's right to refuse. For example, whatever their religious or moral scruples, health professionals should give complete and accurate information and make appropriate referrals. Both legal and ethical principles of informed consent require doctors to tell patients about all treatment options, "including those [the doctor] does not provide or favor, so long as they are supported by respectable medical opinion." Doctors who refuse to treat should also "refer the patient to a physician who does offer or favor the alternative treatment." Nor can a health care provider's religious or moral convictions ever justify endangering a patient's safety. Courts have been appropriately intolerant of lapses in medical professionalism, even when they are religiously motivated.

### ***Insulating the Religious Functions of Pervasively Sectarian Institutions***

The second measure we use to evaluate refusal clauses focuses on the nature of the institution and activity exempted. Churches, temples, mosques, seminaries, and other pervasively sectarian institutions engaged in religious practices ought generally to be free of the requirements of laws repugnant to their beliefs. Among health care institutions, privately funded Christian Science sanatoria may exemplify those that should qualify for a religious exemption. Such sanatoria are staffed by Christian Science healers, and they attend only to those seeking to be healed exclusively through prayer.

When, however, religiously affiliated organizations move into secular pursuits - such as providing medical care or social services to the public or running a business - they should no longer be insulated from secular laws that apply to these secular pursuits. In the public world, they should play by public rules. The vast majority of health care institutions - including those with religious affiliations - serve the general public. They employ a diverse workforce. And they depend on government funds. These

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institutions ought to abide by the same standards of care and reproductive health mandates as apply to other health care institutions.

## WHERE THE PUBLIC STANDS

The ACLU conducted public opinion research - including focus groups and a nationwide telephone survey - on religious objections to providing reproductive health services. This qualitative and quantitative research shows that Americans overwhelmingly oppose laws that protect religious objectors at the expense of the patient's rights and the public health.

*The public opposes refusal clauses that threaten access to health care.*

- 89% oppose ""allowing insurance companies to refuse to pay for medical services they object to on religious grounds.""
- 88% oppose ""allowing pharmacies to refuse to fill prescriptions they object to on religious grounds.""
- 86% oppose ""allowing employers to refuse to provide their employees with health insurance coverage for medical services the employer objects to on religious grounds.""
- 76% oppose ""allowing [hospitals] to refuse to provide medical services they object to on religious grounds.""

The public's insistence on access reflects its view that *religious refusals jeopardize women's health and lives*. Seven in ten Americans are concerned, for example, that if ""religiously affiliated hospitals are allowed to limit access to medical services, the health and lives of many women will be threatened.""

*The public believes that individuals must be allowed to make health care decisions for themselves.* While proponents of refusal clauses often cast the issue as one in which religious liberty is pitted against reproductive rights, the public sees this dichotomy as false.

- 72% agree with the following statement: ""Religious liberty is not threatened by requiring hospitals to provide basic medical care. We are not talking about limiting a person's ability to worship, but access to basic health care.""
- Even when the issue is presented as a choice between the religious interests of institutions and the health care decisions of individuals, however, the public backs the patient.
- 79% believe that it is ""more important to respect the personal conscience of individuals making difficult health care decisions"" than to ""respect the conscience of a religious hospital.""
- 69% believe that it is ""more important to protect the reproductive freedom of women"" than to ""protect the religious freedom of religious hospitals.""

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Moreover, *the public believes that the government's first responsibility is to protect the public health.*

- 72% are more concerned that the government hold "all hospitals - whether religiously affiliated or not - to the same standards" than they are about keeping "the government from forcing religious hospitals to violate their beliefs."
- 83% believe that "if a hospital receives government funds, it should be required to provide basic, legal medical services, regardless of the hospital's religious objections."

Overall, ACLU's public opinion research shows that Americans are deeply troubled by the idea that religious interests could come between them and their health care needs. Hawai'i also has been a leader and strong proponent for women's health, including reproductive rights for decades.

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-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.

Kat Brady  
Legislative Coordinator  
ACLU of Hawai'i

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# PLANNED PARENTHOOD® OF HAWAII

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February 12, 2008

To: Senator David Y. Ige, Chair and Senator Carol Fukunaga, Vice Chair and  
Members of the Senate Committee on Health

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

Re: Testimony in Opposition to SB 2928 Relating to the Right of Conscience

Thank you for allowing me to testify today in opposition to SB 2928 Relating to the Right of Conscience. I am providing this testimony in writing as I am unable to be present today. I have a speaking engagement on the island of Hawaii. I speak on behalf of Planned Parenthood of Hawaii, a non-profit reproductive health organization that provides compassionate, reproductive health care to the people of Hawaii since 1966.

We oppose SB 2928 for a number of reasons. First, the bill intends to provide a "right of conscience" to refuse some services that are, on the face of it, illegal activities. We believe that the law prohibits human cloning and euthanasia, as well as fetal experimentation and physician-assisted suicide. We are not aware of any health care provider, insurer, or patient filing claims for these services or performing these services in Hawaii. Hence we see no reason to provide a right to refuse to perform such services.

We oppose SB 2928 also because it provides an overly broad definition of "conscience" as intending to mean "the religious, moral or ethical principles held by a healthcare provider, the healthcare institution or healthcare payer"...which shall be "...determined by reference to its existing or proposed religious, moral, or ethical guidelines, mission statement, constitution, bylaws, articles of incorporation, regulations, or other relevant documents...."

This definition is so broad so as to allow a healthcare provider, institution or payer to assert a "conscience" based upon a "proposed" religious, moral or ethical positions not yet developed. In addition, the articulation of said "conscience" may be in documents yet to be defined. We would suggest to the Committee that such a broad definition open the door to abuse and can permit individuals or institutions to refuse access to healthcare services on the basis of political ideology or bias, rather than genuine religious convictions.

Further, the Hawaii State Legislature has already taken up the discussion of "religious exemptions" at least for contraceptive services and has codified such exemptions and definitions in §431:10A-116.7 HRS as follows:

**"Contraceptive services; religious employers exemption.** (a) A "religious employer" is an entity for which each of the following is true:

- (1) The inculcation of religious values is the purpose of the entity;
- (2) The entity primarily employs persons who share the religious tenets of the entity;
- (3) The entity is not staffed by public employees; and
- (4) The entity is a nonprofit organization as defined under section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

For the purpose of this definition, any educational, health care, or other nonprofit institution or organization owned or controlled by the religious employer is included in this exemption."

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(A Maui United Way Agency)

The definitions provided in this section provide clear guidance to what kind of institutions would be able to assert Religious or “conscience” based refusal of service. The provisions in SB 2928 go far beyond the past policy of the Legislature.

Finally, SB 2928 appears to be in direct conflict with provisions in yet another Hawaii statute that provide “ (s) The State shall not deny or interfere with a female’s right to choose or obtain an abortion...” as provided in §453-16 HRS.

Planned Parenthood of Hawaii believes in the right of every individual to have access to reproductive health care services, including family planning services and products. We believe it is an act of discrimination to refuse to provide legal and medically prescribed drugs. Individuals who have medications prescribed for them by their health care providers should be able to have their prescriptions filled, be reimbursed by their HMO, and have full access to their medications, without delay.

While we firmly believe that all people have the right to their own opinions and moral beliefs, it is unethical for health care providers, insurers, or others covered in this legislation, to stand in the way of a person’s access to safe, effective, legal and professional health care. We urge you to hold this measure. Thank you for allowing me to testify today.