

**Testimony on SB 604  
RELATING TO HEALTH**

**COMMITTEE ON JUDICIARY AND GOVERNMENT OPERATIONS**

**Senator Brian T. Taniguchi, Chair  
Senator Dwight Y. Takamine, Vice Chair**

**Thursday, February 26, 2009, 9:00 a.m.  
Conference Room 16, 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 Emergency Contraceptives for Sexual Assault Survivors (SB 604). I strongly support this bill in its effort requires a hospital to provide information and emergency contraception to a sexual assault victim and to provide emergency contraception when requested.

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 32,000 will become pregnant as a result. (Holmes, Melissa and Resnick, Heidi A. and Kirkpatrick, Dean G. and Best, Connie L. *Rape-related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*. American Journal of Obstetrics and Gynecology, Vol. 175, 2, pp. 320-325. 1995). About 22,000 of these pregnancies could be prevented if all women who were raped used EC. (Stewart & Trussell, 2000) According to the most recent Crime in Hawaii report, there were 377 forcible rapes reported to law enforcement in Hawaii in 2007. While the overall crime rate was down, the rate of forced rapes increased by 3.9%. (*Crime in Hawaii*, Hawaii Attorney General's Office, 2007)

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 live. 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. Providing EC in the ER is the accepted standard of care. The American Medical Association's Guidelines for treating sexual assault victims states that victims should be informed about and provided EC. American Medical Association, Strategies for the Treatment and Prevention of Sexual Assault (1995). The American College of Obstetrics and Gynecology also supports this standard of care. American College of Obstetricians and Gynecologists, Violence Against Women: Acute Care of Sexual Assault Victims (2004), at [http://www.acog.org/departments/dept\\_notice.cfm?recno=17&bulletin=1625](http://www.acog.org/departments/dept_notice.cfm?recno=17&bulletin=1625). 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. In every emergency room! We must ensure that this medical care is available to everyone woman in this state.

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



# THE SEX ABUSE TREATMENT CENTER

*A Program of Kapi'olani Medical Center for Women & Children*

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DATE: 02/26/2009

TO: The Honorable Brian T. Taniguchi, Chair  
The Honorable Dwight Y. Takamine, Vice Chair  
Committee on Judiciary and Government Operations

FROM: Adriana Ramelli, Executive Director  
The Sex Abuse Treatment Center

RE: SB604 SD1  
Emergency Contraception for Sexual Assault Victims

Good morning Senators Taniguchi and Takamine and members of the Senate Committee on Judiciary and Government Operations. 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 SB604 SD1 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. One very serious physical consequence is an unwanted pregnancy. 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 SB604 SD1 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.

# PLANNED PARENTHOOD® OF HAWAII

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February 26, 2009

## **Testimony in Support: SB 604, SD1**

To: Senator Brian Taniguchi, Chair and Senator Dwight Takamine, Vice Chair, and Members of the Senate Committee on Judiciary and Government Operations

From: Katie Reardon, Vice President of Government & Public Affairs Planned Parenthood of Hawaii

Re: Comments in Support of SB 604, SD1

I thank the Committee for taking time to review my comments in support of SB 604 SD1, which provides all sexual assault victims with information and access to emergency contraceptives in emergency rooms. I understand that this is a familiar bill to the legislature and I urge you to support it. Planned Parenthood of Hawaii strongly supports this bill as it ensures that our most vulnerable and victimized citizens receive the best standard of emergency care.

### **I. SB 604 SD1 Requires Emergency Rooms Provide Information About and Access to Emergency Contraceptives to Sexual Assault Victims.**

SB 604 SD1, requires all Hawaii hospitals to provide information regarding emergency contraceptives to all sexual assault victims who seek treatment in their emergency rooms, and for those victims who request it, to administer EC. Providing EC is the standard of care accepted by the medical community, however some hospitals neglect or refuse to provide this basic care to sexual assault victims. This bill will ensure that all sexual assault victims receive the same quality of medical care, thereby reducing the number of pregnancies resulting from rape and mitigating the inevitable trauma caused by this violent offense.

### **II. Sexual Assault is a Frequent and Traumatic Occurrence for Hawaii's Women.**

In 2007 there were 248,300 rapes in the United States.<sup>1</sup> According to the most recent Crime in Hawaii report, there were 377 forcible rapes reported to law enforcement in Hawaii in 2007.<sup>2</sup> While the overall crime rate was down, the rate of forced rapes increased by 3.9%.<sup>3</sup> Notable is the many rapes that go unreported each year. Major studies show that reporting rates for rape and sexual assault are approximately 40%.<sup>4</sup> Still some studies have shown that rate to be as low as 16%.<sup>5</sup> Many of these victims required emergency medical care at one of Hawaii's emergency rooms.

<sup>1</sup> *National Crime Victimization Survey*, US Department of Justice Bureau of Crime Statistics, 2005

<sup>2</sup> *Crime in Hawaii*, Hawaii Attorney General's Office, 2007

<sup>3</sup> *Id.*

<sup>4</sup> *National Crime Victimization Survey*, 2005

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(A Maui United Way Agency)

Spouse, neighbor, or stranger- no matter who the perpetrator, sexual assault is a life threatening event and one that leaves victims with not just physical injury, but with long term emotional scars, including depression, anxiety, and intense fear.<sup>6</sup> Approximately one third of all victims suffer from Post Traumatic Stress Disorder.<sup>7</sup> Many victims require extensive counseling or therapy to heal from their assaults. Left untreated, sexual assault can lead to significant long term mental health problems.

### **III. Pregnancy Resulting from Rape Causes Victims Further Trauma.**

Lingering health concerns exacerbate the trauma of a sexual assault. All victims must deal with the reality of reproductive health concerns following an assault. Each victim faces the possibility of contracting an STI or becoming pregnant as the result of a rape.

Pregnancy as the result of a rape can be profoundly traumatic. Sexual assault takes away a person's fundamental control and autonomy over her body. Victims have no choice over engaging in sexual activity or using contraception. The violation is perhaps the most intimate and violent act one can experience. For some victims, pregnancy does occur. Though statistics vary, the average rate of pregnancy resulting from rape is somewhere between 1 to 5% with an estimated 32,000 rape related pregnancies occurring every year.<sup>8</sup> 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>9</sup>

To be clear, though pregnancy does not occur in all, or even most, cases of sexual assault, each victim who has experience forced and unwanted sexual intercourse must confront the risk of pregnancy and other issues related to her sexual and reproductive health. A pregnancy resulting from rape is not just unplanned, it is forced. Denying victims the information and autonomy to make sound medical decisions regarding their reproductive health only furthers the violation of a rape.

### **IV. Emergency Contraception is Standard of Care for Sexual Assault Victims and is Supported by the Community.**

EC is a safe and effective means of preventing pregnancy after a sexual assault. It is not an abortion pill, nor does it cause abortion. EC is a higher dose contraceptive, similar to the commonly used birth control pill. EC, when taken within 72 hours of an assault, prevents ovulation and fertilization of an egg. It may, but has not been conclusively shown to, prevent implantation of an egg. EC has been approved by the FDA.<sup>10</sup>

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<sup>5</sup> National Center for Victims of Crime & Crime Victims Research and Treatment Center, *Rape in American: A Report to the Nation*, (1992).

<sup>6</sup> See, American Medical Association, *Strategies for the Treatment and Prevention of Sexual Assault*, (1995), stating that 80% of sexual assault victims seek services related to mental health needs some time after the assault.

<sup>7</sup> National Center for Victims of Crime & Crime Victims Research and Treatment Center, (1992).

<sup>8</sup> Holmes, Melissa and Resnick, Heidi A. and Kirkpatrick, Dean G. and Best, Connie L. *Rape-related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*. American Journal of Obstetrics and Gynecology, Vol. 175, 2, pp. 320-325. (1995).

<sup>9</sup> Id.

<sup>10</sup> See 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.

Providing EC to sexual assault victims is the best practice in emergency medical care. Various professional medical associations have stated that this is the preferred standard of care.

The **American Medical Association** has published guidelines for the emergency treatment of sexual assault victims. Those guidelines call for the provision of EC to victims.<sup>11</sup>

The **American College of Obstetrics and Gynecology** has also established guidelines for treatment of sexual assault victims. In “Acute Treatment of Sexual Assault Victims”, ACOG states Emergency contraception should be offered to all victims of sexual assault if they are at risk of pregnancy.<sup>12</sup>

In a 2005 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.

Nonetheless, some of our hospitals do not provide EC, or even information about EC to victims. According to an informal telephone survey performed by Health Mothers Healthy Babies, out of 17 hospitals, only 4 stated that they routinely offer EC to sexual assault victims in their emergency rooms.<sup>13</sup> Five Oahu hospitals refer victims to Kapiolani Medical Center where they can receive EC, if those victims choose to undergo a forensic rape kit examination.<sup>14</sup> Victims deserve the best care, no matter the hospital they visit. In light of the violence every sexual assault victim experiences, denying a sexual assault victim proper care is unconscionable. SB 604 ensures that no matter which hospital a victim is seen, she receives the best standard of care.

Twelve states have enacted similar legislation regarding EC for sexual assault victims. Those states include: **California, Connecticut, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Washington, and Wisconsin**<sup>15</sup>

#### **IV. Amendment**

Some testifiers have asked previous committees to insert an amendment exempting religious affiliated hospitals from administering EC to sexual assault victims. Both the Senate Committee on Health and the House Committee on Judiciary have rejected such an amendment and I urge this committee to do the same. A religious exemption effectively undoes the purpose of this bill- to ensure that all victims of sexual assault have access to the medically accepted standard of care, which includes EC to prevent pregnancy, when seeking emergency medical treatment. The law proposed by HB 423 is written in way to best achieve its purpose. It does not violate Free Exercise of Religion, nor does it require any religious exemption to survive constitutional analysis. Both the US Supreme Court and Hawaii’s Supreme Court have upheld similarly neutral laws of general applicability and have dismissed the idea that laws require religious exemptions.<sup>16</sup>

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<sup>11</sup> See, *Strategies for the Treatment and Prevention of Sexual Assault*.

<sup>12</sup> See, American College of Obstetricians and Gynecologists, *Violence Against Women: Acute Care of Sexual Assault Victims* (2004), at [http://www.acog.org/departments/dept\\_notice.cfm?recno=17&bulletin=1625](http://www.acog.org/departments/dept_notice.cfm?recno=17&bulletin=1625).

<sup>13</sup> Hospitals include Molokai General, Wilcox Memorial on Kauai, Kapiolani Medical Center, Waianae Coast Comprehensive Health Center, and Tripler.

<sup>14</sup> Hospitals include Kuakini Medical Center, Queens Medical Center, Wahiawa General Hospital, Straub Hospital, and Kaiser.

<sup>15</sup> Access to Emergency Contraception, State Policies in Brief, as of February 1, 2009, Guttmacher Institute. Available at: [http://www.agi-usa.org/pubs/spib\\_EC.pdf](http://www.agi-usa.org/pubs/spib_EC.pdf).

<sup>16</sup> *Employment Div., Dep’t of Human Res. Of Oregon v. Smith*, 494 U.S. 872 (1990) (holding that neutral laws of general applicability that have incidental effects on religious believers do not violate the First Amendment and do not require religious exemptions); See also *State v. Sunderland* 115 Haw. 396 (2007) (upholding a general law that appellant argued interfered with his religious practice and refusing to require a religious exemption).

**IV. Please Support SB 604 SD1 and Hawaii's Sexual Assault Victims.**

SB 604 SD1 is essential to providing the best quality of care for sexual assault victims, who after a rape are challenged with myriad physical and emotional injuries. Crucial to a victims healing is restoring her ability to make decisions and have control over her own body. This bill is a meaningful step towards assisting victims and lessening their trauma, as well as restoring their power. All victims deserve the best standard of care no matter what ER they arrive in, and passing this bill will ensure that they do. We ask you to pass SB 604 SD 1.



**St. Francis**

HEALTHCARE SYSTEM OF HAWAII  
A Legacy of Caring for Hawaii's People

Email To: Health Committee ~ HTHTestimony@capitol.hawaii.gov  
For Senate Committee on Health Hearing, SB 604  
Wednesday, February 11, 2009, 3:00 PM., Conference Room 016

February 10, 2009

**SENATE COMMITTEE ON HEALTH**

Senator David Y. Ige, Chair  
Senator Josh Green, MD, Vice Chair

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

**St. Francis Healthcare System of Hawaii strongly opposes SB 604 unless a religious exemption is included.**

The freedom to operate without intrusive, burdensome government mandates is important to every business. It becomes particularly challenging when lawmakers attempt to regulate medical practices, and it is even more problematic and disturbing when regulations begin to dictate religious values, crossing the line between Church and State.

The bill that is being voted on today, SB 604, is proposing that all health care organizations in Hawaii be required to offer emergency contraceptive in their emergency rooms. St. Francis Healthcare System opposes this mandate. It is not because we do not have compassion for those who have been raped, nor is it because of our unbridled zeal to protect the unborn at the expense of the emotional and psychological health of the rape victim. We are opposed to this bill simply because it is an infringement on our religious freedom which is an integral part of our mission.

We are not advocating a ban on emergency contraceptive pills altogether. We are only asking that it not be made a legal requirement for St. Francis Healthcare System and Hawaii Medical Center, which shares and fully supports Catholic ethical and religious values and that you consider an amendment that exempt our organizations.

*St. Francis Community Health Services St. Francis Healthcare Foundation of Hawaii  
St. Francis Healthcare Enterprises, Inc. St. Francis Residential Care Community Our Lady of Kea'au*



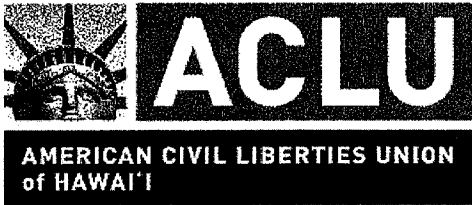
Hawaii's hospitals cannot be all things to all people because this is not financially feasible, and that is why many health care organizations have specialty areas such as burn treatment, trauma care, and care for women and children. We would gladly refer women to other organizations that do offer emergency contraceptive.

Our request is reasonable and logical. Just as others may not want Catholic health care groups to impose our beliefs on them, we are asking Hawaii's lawmakers to do the same. No matter which side of the issue you may be on regarding abortion, we urge you to not impose values and requirements on Catholic health care organizations that go against our beliefs. Thank you for your consideration.

Sister Agnelle Ching, OSF  
Chief Executive Officer  
St. Francis Healthcare System of Hawaii

The following is sample language from HB1240 HD1, 2005 Legislature for a religious exemption:

“A religiously affiliated hospital with a religious objection to participation in the requirement of subsection (xx) shall be exempt therefrom but shall provide emergency care to a sexual assault survivor by providing medically appropriate transportation in a timely manner to another health care facility or provider of the survivor's choice. The religiously affiliated hospital shall be responsible to the cost associated with transportation to the healthcare facility or provider of the survivor's choice. A hospital that is exempt under this subsection shall inform the sexual assault survivor that she will not be held responsible for the cost associated with transportation to the health care facility or provider of the survivor's choice”.



VIA EMAIL: [JGOtestimony@capitol.hawaii.gov](mailto:JGOtestimony@capitol.hawaii.gov)

Committee: Committee on Judiciary and Government Operations  
Hearing Date/Time: Thursday, February 26, 2009, 9:00 a.m.  
Place: State Capitol, Conference Room 016  
Re: *Testimony of the ACLU of Hawaii in Support of S.B. 604, SD1, Relating to Emergency Contraceptives for Sexual Assault Survivors*

Dear Chair Taniguchi and Members of the Committee on Judiciary and Government Operations:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of S.B. 604, SD1, which seeks to require hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested.

Hawaii should not turn its back on sexual assault survivors and force them to face the added burden of possibly becoming pregnant as a result of rape. The denial of access to contraceptive services for sexual assault survivors has severe repercussions for a woman’s right to live her life and her ability to participate equally in society. Simply put, reproductive health care is essential to a woman’s opportunity – the opportunity to obtain a good education, to improve her economic circumstances, to participate in public life, to define her family, to decide what makes a meaningful life, and to live that life. Hawaii should not turn its back on sexual assault survivors.

**1. This bill is critically important for sexual assault victims on the neighbor islands**

According to the most recent Crime in Hawaii report, there were 377 forcible rapes reported to law enforcement in Hawaii in 2007.<sup>1</sup> While Hawaii’s overall crime rate was down, the rate of forced rapes increased by 3.9%.<sup>2</sup> Many of these victims required emergency medical care at one of Hawaii’s emergency rooms. Tragically, only six out of Hawaii’s twenty emergency rooms provide emergency contraceptive access to sexual assault victims.<sup>3</sup> In other

<sup>1</sup> *Crime in Hawaii*, Hawaii Attorney General’s Office, 2007.

<sup>2</sup> *Id.*

<sup>3</sup> To our knowledge, Wilcox Memorial on Kauai, Molokai General, Tripler, Kapiolani, Waianae Coast Comprehensive Health Center and Kahuku Hospital routinely offer EC to sexual assault survivors.

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words, residents of Maui, Lanai and the Big Island may have no access to emergency contraception in the emergency room. Moreover, in some rural communities, there is only one local hospital. If that hospital does not provide EC, it may be extremely difficult or even impossible for a rape victim to access the care she needs to avoid a pregnancy as a result of the rape.

**2. Emergency Contraception is only effective if taken within a few hours of a sexual assault**

Emergency contraceptive (“EC”) pills, sometimes referred to as “morning-after” pills, can *prevent* pregnancy after unprotected intercourse, including rape.<sup>4</sup> EC is a concentrated dosage of ordinary birth-control pills that can dramatically reduce a woman’s chance of pregnancy if taken within 72 hours of unprotected intercourse or contraceptive failure. It is most effective if taken within 12 hours of intercourse, but can be effective up to at least 120 hours.<sup>5</sup>

Time is absolutely critical for a woman who wishes to prevent pregnancy after rape. The effectiveness of EC diminishes with delay: experts stress that EC is most effective the sooner it is taken, with effectiveness decreasing every 12 hours.<sup>6</sup> Therefore, it is extremely important that, during an initial examination, emergency care facilities offer EC to women who have been raped.

**3. Major medical groups recommend that EC be offered to women to prevent pregnancy after a sexual assault.**

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<sup>4</sup> For purposes of this fact sheet, EC means emergency contraceptive pills. Intrauterine devices (IUDs) may also be used as post-coital contraceptives if inserted within 5 days of the unprotected intercourse. However, pills are far more commonly used than IUDs as emergency contraception.

<sup>5</sup> Charlotte Ellertson et al., Extending the time limit for starting the Yuzpe regimen of emergency contraception to 120 hours, 101 *Obstet. Gynecol.* 1168, 1168 (2003); Helena von Hertzen et al., Low dose mifepristone and two regimens of levonorgestrel for emergency contraception: A WHO multicentre randomized trial, 360 *Lancet* 1803, 1809-10 (2002).

<sup>6</sup> G. Piaggio et al., Timing of emergency contraception with levonorgestrel and the Yuzpe regimen, 353 *Lancet* 721, 721 (1999); see also Task Force on Postovulatory Methods of Fertility Regulation, Randomised controlled trial of levonorgestrel versus the Yuzpe regimen of combined oral contraceptives for emergency contraception, 352 *Lancet* 428, 430-31 & Table 3 (1998).

Hon. Sen. Taniguchi, JGO Committee,  
and Members Thereof  
February 26, 2009  
Page 3 of 6

The American College of Obstetricians and Gynecologists and the American Public Health Association recommend that EC be offered to all rape patients at risk of pregnancy.<sup>7</sup> Likewise, in their guidelines for treating women who have been raped, the American Medical Association advises physicians to ensure that rape patients are informed about and, if appropriate, provided EC.<sup>8</sup>

Sexual assault victims' groups around the country have also advocated to increase access to EC for rape victims.<sup>9</sup> In addition, the National Sexual Violence Resource Center has worked to ensure that every sexual assault victim is offered the means to prevent pregnancy when she receives treatment at an emergency care facility.<sup>10</sup>

**4. The list of states mandating that EC be available in the Emergency Room is growing**

Many emergency care facilities fail to provide EC to women who have been raped, and some fail even to inform women seeking care after an assault that such a treatment is available. According to a study by the ACLU, fewer than 40 percent of emergency care facilities (in eight of eleven states surveyed) provide EC on-site to rape victims.<sup>11</sup> The failure of hospitals and

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<sup>7</sup> American College of Obstetricians and Gynecologists, *Sexual Assault* 242 Educ. Bull. 3 (Nov. 1997); American College of Obstetricians and Gynecologists, *Violence Against Women: Acute Care of Sexual Assault Victims* (2004), at [http://www.acog.org/departments/dept\\_notice.cfm?recno=17&bulletin=1625](http://www.acog.org/departments/dept_notice.cfm?recno=17&bulletin=1625).

<sup>8</sup> See, e.g., American Medical Association, *Strategies for the Treatment and Prevention of Sexual Assault* (1995).

<sup>9</sup> Letter from Montana Coalition Against Domestic & Sexual Violence et al., to Diane M. Stuart, Director, Office on Violence Against Women (January 6, 2005), available at <http://www.aclu.org/ReproductiveRights/ReproductiveRights.cfm?ID=17278&c=30>.

<sup>10</sup> National Sexual Violence Resource Center et al., *Preventing Pregnancy from Sexual Assault: Four Action Strategies to Improve Hospital Policies on Provision of Emergency Contraception* (2003), available at <http://www.nsvrc.org/resources/docs/ECtoolkit.pdf>.

<sup>11</sup> A copy of the ACLU briefing paper, *Preventing Pregnancy after Rape: Emergency Care Facilities Put Women at Risk*, may be downloaded at [www.aclu.org/reproductiverights/gen/12748pub20041215.html](http://www.aclu.org/reproductiverights/gen/12748pub20041215.html). If you are interested in conducting a survey, the ACLU manual, *EC in the ER: A manual for improving services for women who have been sexually assaulted*, may greatly assist your efforts. For copies of the manual, or for printed copies of the ACLU EC briefing paper, please contact us at [office@acluhawaii.org](mailto:office@acluhawaii.org) or call 808-522-5900.

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other facilities treating rape victims to provide EC leaves these women at risk of becoming pregnant as a result of assault. EC is part of comprehensive care for women who have been raped and should be offered on-site by emergency care facilities.

Six states – California, Massachusetts, New Jersey, New Mexico, New York, and Washington – have passed laws requiring emergency care facilities to offer EC to rape victims they treat. Many other states have introduced similar measures.

**5. Emergency care facilities should offer EC to a woman during her initial exam following a sexual assault.**

A woman who has been raped who does not obtain EC in an emergency care facility must track down EC on her own. However, a woman who has been raped should not have to seek out additional medical care to prevent pregnancy.<sup>12</sup> In addition to the emotional burden this imposes, a rape victim would face increased risk of pregnancy because of the delay inherent in having to take further steps to track down EC, and in some instances she may be unable to obtain EC at all.

A rape victim is often taken to an emergency care facility by the police or emergency medical technicians. Under these conditions, most women lack the time, information, and opportunity to assess a given hospital's policy and ask to be taken to a facility that provides EC. Nor should these women be expected to do so after surviving such a brutal crime.

A bill that merely requires emergency care facilities to provide information, a referral, or a prescription for EC, fails to ensure women's health and well-being. By the time a woman arrives at an emergency facility, hours may have already elapsed since the rape took place. In the time remaining before the EC will cease to be effective, a woman who is merely informed that EC exists would most likely have to find a pharmacy that carries the medication. Unfortunately, studies show some pharmacies do not stock EC and others refuse to dispense it.<sup>13</sup>

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<sup>12</sup> Because of recent action by the Food and Drug Administration, EC is currently available at the pharmacy to women 18 and older who present government-issued proof of age. For women under the age of 18 and adult women who do not have government-issued proof of age, a prescription is still necessary to obtain EC.

<sup>13</sup> Eve Espey et al., *Emergency Contraception: Pharmacy Access in Albuquerque, New Mexico*, 102 *Obstet. Gynecol.* 918, 920 (2003); Clara Bell Duvall *Reproductive Freedom Project of the ACLU of Pennsylvania*,

Hon. Sen. Taniguchi, JGO Committee,  
and Members Thereof  
February 26, 2009  
Page 5 of 6

As the hours tick by, her chances of preventing pregnancy decrease. Depending on when the rape occurs and where she lives, obtaining EC in time may be virtually impossible.

Moreover, in some rural communities, there is only one local hospital. If that hospital does not provide EC, it may be extremely difficult or even impossible for a rape victim to access the care she needs to avoid a pregnancy as a result of the rape.

**6. An institution's religious objections to EC must not imperil a woman's access to timely and comprehensive treatment.**

Some emergency care facilities, invoking religious objections, refuse to provide EC because it may interfere with the implantation of a fertilized egg. Such objections cannot be allowed to stand against the urgent needs of a woman who has been raped. Emergency care facilities – whether religiously affiliated or not – are ethically and morally obligated to offer the best care possible to everyone who comes through their doors in need of care. EC is basic health care for women who have been raped.

Moreover, emergency care facilities treat and employ people of many faiths; they should not be allowed to impose one set of religious beliefs on the people of diverse backgrounds who provide and seek care. If a hospital is unwilling to dispense EC, it is not equipped to treat rape victims.<sup>14</sup>

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Knowledge and Availability of Emergency Contraception in Pennsylvania Pharmacies (2002), at <http://www.aclupa.org/duvall/ecinpa/pharmacists.html>.

<sup>14</sup> For a detailed and useful response to religious objections to providing EC for rape victims, see National Sexual Violence Resource Center et al., *Supra* note 9, at 37-39.

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Hon. Sen. Taniguchi, JGO Committee,  
and Members Thereof  
February 26, 2009  
Page 6 of 6

**7. EC prevents pregnancy. It does not induce an abortion.**

Emergency contraceptive pills are high doses of oral contraceptives, the birth control pills that millions of women take every day. EC generally works by preventing ovulation or fertilization. It may also work by preventing implantation, although there is no proof of this. EC does not disrupt an established pregnancy, which the medical community defines as beginning with implantation. EC should not be confused with mifepristone (RU-486 or the early-abortion pill), a drug approved by the Food and Drug Administration in September 2000, which causes an abortion in the first 63 days of pregnancy.

*To help protect rape victims from unintended pregnancy, go to*  
<http://www.aclu.org/ReproductiveRights/ReproductiveRights.cfm?ID=17705&c=30>

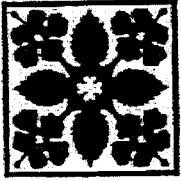
The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that 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 and for your attention to this matter. We hope that you will do your utmost to improve the quality of care for survivors of sexual assault in Hawaii.

Sincerely,

Laurie A. Temple  
Staff Attorney  
ACLU of Hawaii

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## Hawai'i Women's Political Caucus

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A State Chapter of the  
National Women's  
Political Caucus

February 24, 2009

TO: Senator Brian T. Taniguchi, Chair  
Senator Dwight Y. Takamine, Vice Chair and  
Members of the Senate Committee on Judiciary and  
Government Operations

FROM: Faye Kennedy, President, Hawai'i Women's Political Caucus

RE: SB604 SD1 Relating to Emergency Contraceptives for Sexual  
Assault Survivors.  
(Thursday, February 26, 2009 at 9:00am in Room 016)

POSITION: STRONG SUPPORT

Good morning, Chair Taniguchi, Vice Chair Takamine and members of the Senate Committee on Judiciary and Government Operations. I am Faye Kennedy representing the Hawai'i Women's Political Caucus and submitting testimony in strong support of SB604 SD1 which requires hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested. It also provides for administrative penalties for non-compliance.

Emergency contraceptives are a safe and effective means of reducing the risk of pregnancy after unprotected intercourse. It is unethical to withhold emergency contraceptives for any reason from a woman who has been raped. All hospitals should, in good conscious, have the responsibility to provide emergency care to sexual assault survivors with written and oral information that is medically and factually accurate. And it is the right of every woman who has been sexually assaulted to have the option of receiving emergency contraception at the hospital.

The Hawai'i Women's Political Caucus was established in 1981 and is a multi-partisan organization committed to increasing women's participation in the political process and increasing their representation in elected and appointed office. HWPC also supports male candidates committed to its goals. HWPC is dedicated to equality in employment, stopping all violence against women, and improving the health and well-being of women and families. Reproductive freedom is one of our most fundamental issues.

On behalf of the Hawaii Women's Political Caucus, I urge your Committee to pass this important measure that ensures the rights of women to make decisions about their own bodies.

Thank you for the opportunity to submit this testimony in strong support of SB604 SD1.





DEMOCRATIC PARTY OF HAWAII

Hawai'i State Democratic Women's Caucus 1050 Ala Moana Blvd #D-26, Honolulu, HI 96814 Email: [hidemocraticwomenscaucus@yahoo.com](mailto:hidemocraticwomenscaucus@yahoo.com)

February 26, 2009

To: Senator Brian Taniguchi, Chair  
Senator Dwight Takamine, Vice Chair and  
Members of the Committee on Judiciary and Government Operations

From: Jeanne Ohta, Chair of Legislative Committee, Hawai'i State Democratic Women's Caucus

Re: SB 604 SD1 RELATING TO EMERGENCY CONTRACEPTIVES FOR SEX ASSAULT  
SURVIVORS  
(February 26, 2009, 9:00 a.m., Room 016)

Position: STRONG SUPPORT

Thank you for hearing this bill and for allowing me to present testimony today, in support of SB 604 SD1 which requires hospitals to provide information about emergency contraception (EC) to women who are sexually assaulted and to provide EC when requested.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls. It is because of this mission, the Women's Caucus strongly supports this measure which provides for an accepted standard of medical care for victims of sexual assault.

We call your attention to the American Medical Association's Guidelines for treating sexual assault victims which states that victims should be informed about and provided EC.<sup>1</sup> The American College of Obstetrics and Gynecology also supports this standard of care.<sup>2</sup> We simply cannot allow care that does not meet established standards. In the aftermath of rape, victims find themselves dealing with a host of reproductive and sexual health issues, including pregnancy. Providing information about EC and administering EC within the recommended 72 hours can prevent pregnancy. Women who have been raped have a particularly compelling need for quick and easy access to EC.

We ask this committee to ensure that sex assault victims are provided with this standard of care no matter where treatment is sought; and that hospitals are not excused from their duty to provide these accepted standards of care. 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.

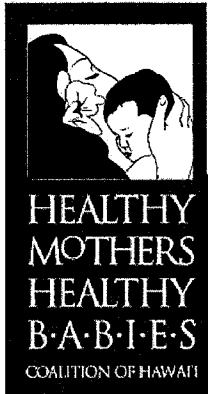
<sup>1</sup> American Medical Association, Strategies for the Treatment and Prevention of Sexual Assault (1995).

<sup>2</sup> American College of Obstetricians and Gynecologists, Violence Against Women: Acute Care of Sexual Assault Victims (2004), at [http://www.acog.org/departments/dept\\_notice.cfm?recno=17&bulletin=1625](http://www.acog.org/departments/dept_notice.cfm?recno=17&bulletin=1625)

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.

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.

We strongly urge this committee to pass SB 604 SD1 and show that this legislature understands and supports the needs of sexual assault victims. Thank you for allowing me to submit my testimony in support of this measure.



TO: Chair Taniguchi  
Committee: Senate Judiciary and Government Operations  
FROM: Kari Wheeling, Project Coordinator  
RE: SB 604 EC for Sexual Assault Survivors  
Hearing: February 26, Thursday, 9am in room 016

Honorable Chairperson Taniguchi and Vice Chair Takamine and Members of the Senate Judiciary and Government Operations Committee:

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 SB 604 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.

Thank you for the opportunity to testify.

February 24, 2009

**TO: Hawai`i Senate Committee on Judiciary and Government Operations**

**FROM: Jane Chung-Do, MPH**

**RE: SUPPORT FOR SB604 RELATING TO EMERGENCY CONTRACEPTIVES FOR SEXUAL ASSAULT SURVIVORS**

Dear Senators Brian T. Taniguchi and Dwight Y. Takamine,

As a female resident of Hawai`i, I am writing to urge you to **SUPPORT SB604 related to emergency contraceptives (EC) for sexual assault survivors.** Through my experiences as a doctoral student of the Department of Public Health Sciences at the University of Hawai`i and a former outreach educator for the Sex Abuse Treatment Center of Kapi`olani Medical Center, I have gained a deeper understanding and empathy of the psychological and physical suffering that many sexual assault survivors must face. Many lose their sense of control and power in their lives that can have a lasting negative impact on their individual mental health, their loved ones, and Hawai`i communities.<sup>1</sup> SB604 will help ensure that female sexual assault survivors in the future will be empowered to make informed decisions about their bodies and their futures, which will facilitate their path to healing.

In the United States, 300,000 women are reportedly sexual assaulted each year.<sup>2</sup> Out of these women, about 25,000 become pregnant. This is more than the number of undergraduate, graduate, and professional students enrolled at the University of Hawai`i-Mānoa.<sup>3</sup> Because sexual assaults are often underreported, this figure is estimated to be much higher.<sup>4</sup> Female sexual assault survivors have the right to be informed about the availability of EC when they seek medical services at Hawai`i hospitals. Should they chose to receive EC, all Hawai`i hospitals have the ethical responsibility to provide it to their patients. By providing EC within 72 hours of sexual contact, pregnancy can be effectively and safely prevented. This is the standard of care put forth by the American Medical Association,<sup>5</sup> American College of Obstetrics and Gynecology,<sup>6</sup> and the American Public Health Association.<sup>7</sup> In addition, it is the standard of care practiced by the Sex Abuse Treatment Center of Kapi`olani Medical Center, which provides comprehensive medical and therapeutic care for sexual assault survivors in Hawai`i.<sup>8</sup>

Contrary to popular belief, EC does not induce abortion by terminating a pregnancy if the woman is already pregnant.<sup>9</sup> It *prevents* pregnancies by

delaying ovulation or preventing fertilization of the egg. Out of the 25,000 pregnancies that occur as a result of a sexual assault, about 15,000 end in abortions.<sup>2</sup> Providing EC may actually decrease the number of abortions that occur due to unwanted pregnancies from a sexual assault. Moreover, forcing a woman to carry a baby as a result of a rape will only undermine the woman's path to healing.

SB604 will provide female sexual assault survivors the rightful opportunity to make an informed decision about their bodies and their future. Please support this bill for the future of women's health in Hawai'i.

Thank you for this opportunity to testify,

Jane Chung-Do, MPH

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February 25, 2009

TO: Senators Brian Taniguchi and Dwight Takamine  
Committee on Judiciary and Government Operations

FROM: Melinda Wood, private citizen

SUBJECT: In Support of SB 604

Thank you for the opportunity to testify on SB 604 Relating to Emergency Contraceptives for Sexual Assault Victims. As this is an emotional issue for some people, let me begin with the facts. Emergency contraception (EC) is simply a high dose of birth control pills. It prevents ovulation, fertilization, or implantation of an egg, when taken within 72 hours, in this case, after a rape. It is not the “abortion pill.” EC is a safe and effective way to prevent pregnancy.

Use of EC is part of the medically accepted standard of care for rape victims. Both the AMA and the American College of Obstetrics and Gynecology support this standard. In compliance these standards and with Hawaii state criminal statutes, it is made available to all rape victims who report their assault to the police. These victims are taken to the Sex Assault Treatment Center to receive the highest level of professional and compassionate care.

However, some victims may not report their assault to the police and/or may not realize the extent of their injuries immediately. If they choose to go to the nearest hospital or emergency facility, they have no assurance that it follows the accepted medical standards of care. While these victims may be relatively few in number (no figures are available), their trauma and suffering is no less than those who do file a police report. In fact, they may have an even greater level of fear if their rapist is a friend or family member who has threatened them not to go to the police; imagine how much they could fear getting pregnant by that person, especially if the personnel who treat them do not offer the option of EC.

In past years, there has been some debate in Hawaii regarding religious exemptions for some medical facilities, notably St. Francis Hospitals. These facilities have been bought out and taken over by a private, for-profit group of doctors, renaming the facilities to Hawaii Medical Centers (HMC). The Catholic order of nuns who own the land under the facilities claim to have a contract with HMC that requires them to follow the Catholic tenets regarding birth control and abortion. This is objectionable and specious on several counts. First, a number of Catholic hospitals around the country that have found guidance in their beliefs and covenants that enable them to offer EC to sexual assault victims in their facilities. Second, HMC is not a religious entity—it is a doctor-owned private corporation that leases its land from St. Francis Healthcare Systems. HMC’s stated mission is “To provide superior healthcare, in a compassionate and patient-centered environment where the inherent dignity of the human being is emphasized [emphasis added]. The mission goes on to say that HMC “put[s] patient needs first” and “ensure[s] the care they provide will reflect current best practices.” Their vision includes “optimum patient care and health outcomes.” However, they cannot fulfill their stated mission and vision as long as the St. Francis Healthcare Systems argues for a religious exemption to this bill. It seems to me that the relationship between the landowner and the leaseholder needs to be

explored in much greater legal depth, perhaps similar to how Bishop Estate lands were examined by our courts in decades past. Finally, twelve other states have passed similar legislation to SB 604, including several that fall under the same Circuit Court jurisdiction as Hawaii.

I highly recommend that the Hawaii Senate demonstrate both compassion and fairness in supporting the rights of rape victims to receive the medically accepted standards of care at any and all medical facilities in the state. Please support SB 604. Should you wish to discuss this further with me, you may call me at 945-0135. After many years of debate on this issue, I look forward to a positive outcome this year.

Melinda Wood  
1505 Alexander St. #604  
Honolulu, HI 96822

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**From:** JoAnn Yukimura [jyukimura@gmail.com]  
**Sent:** Wednesday, February 25, 2009 11:58 AM  
**To:** JGO Testimony  
**Subject:** SB 604, SD1

Aloha, Chair Taniguchi and Members:

I am writing in support of SB 604, SD1. It is the right thing to do.  
Please give your approval. Mahalo.

JoAnn A. Yukimura