
A BILL FOR AN ACT

RELATING TO HEALTHCARE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. In the aftermath of rape, victims find
2 themselves dealing with a host of reproductive and sexual health
3 issues. The physical and emotional trauma suffered by victims
4 is compounded by the possibility of unwanted pregnancy as a
5 result of the rape. The average rate of pregnancy resulting
6 from rape is between five and eight per cent, with an estimated
7 thirty-two thousand rape related pregnancies occurring every
8 year in the United States.

9 Emergency contraception is a safe and effective means of
10 preventing pregnancy after a sexual assault. In fact, the
11 provision of emergency contraception to victims of sexual
12 assault is the most widely recognized and accepted standard of
13 care for sexual assault patients. The American Medical
14 Association and the American College of Obstetricians and
15 Gynecologists have stated that sexual assault victims should be
16 informed about and provided emergency contraception. However, a
17 recent survey of emergency facilities in Hawaii revealed a lack
18 of clear policy on the issue.



1 The purpose of this Act is to ensure that victims of sexual
2 assault are provided information about and access to emergency
3 contraception when receiving emergency medical care at Hawaii's
4 hospitals for sexual assaults.

5 SECTION 2. Chapter 321, Hawaii Revised Statutes, is
6 amended by adding a new part to be appropriately designated and
7 to read as follows:

8 "PART . COMPASSIONATE CARE

9 §321-A Definition. As used in this part, unless the
10 context clearly requires otherwise:

11 "Department" means the department of health.

12 "Emergency contraception" means one or more prescription
13 drugs used separately or in combination that is:

14 (1) Used postcoitally within a recommended amount of time;

15 (2) Used for the purpose of preventing pregnancy; and

16 (3) Approved by the United States Food and Drug
17 Administration.

18 "Emergency medical care" includes any medical examination
19 or treatment provided by a hospital to a sexual assault survivor
20 following an alleged sexual assault.

21 "Hospital" includes:



1 (1) An institution with an organized medical staff,
2 regulated under section 321-11(10), that admits
3 patients for inpatient care, diagnosis, observation,
4 and treatment; and

5 (2) A health facility as defined in section 323F-1.

6 "Medical care" means every type of care, treatment,
7 surgery, hospitalization, attendance, service, and supplies as
8 the nature of an injury or condition requires.

9 "Sexual assault" means sexual penetration as defined in
10 section 707-700.

11 "Sexual assault survivor" means a person who alleges or is
12 alleged to have been sexually assaulted and as a result of the
13 sexual assault presents as a patient at a hospital.

14 **§321-B Compassionate care.** (a) Any hospital that
15 provides emergency medical care based upon an alleged sexual
16 assault to a sexual assault survivor shall:

17 (1) Provide any female sexual assault survivor with
18 medically and factually accurate and unbiased written
19 and oral information about emergency contraception;

20 (2) Orally inform each female sexual assault survivor of
21 the option to receive emergency contraception at the
22 hospital;



1 (3) When medically indicated, provide emergency
2 contraception to each female sexual assault survivor
3 who requests it, including the initial dose that can
4 be taken at the hospital, and any further dosage as
5 necessary; and

6 (4) Ensure that each person at the hospital who may
7 provide emergency medical care shall be trained to
8 provide a sexual assault survivor with medically and
9 factually accurate and unbiased written and oral
10 information about emergency contraception and sexual
11 assault treatment options and access to emergency
12 contraception.

13 (b) No hospital shall deny a sexual assault survivor
14 emergency contraception based on a refusal to undergo a forensic
15 or other medical examination or a refusal to report the alleged
16 sexual assault to law enforcement.

17 (c) No hospital shall be required to provide emergency
18 contraception to a sexual assault victim who has been determined
19 to be pregnant through the administration by the hospital staff
20 of a pregnancy test approved by the United States Food and Drug
21 Administration.



1 (d) The cost of any emergency contraception dispensed
2 pursuant to this part shall be paid by the department using
3 moneys from the domestic violence and sexual assault special
4 fund under section 321-1.3.

5 (e) The department shall adopt rules under chapter 91 for
6 the purposes of this part.

7 **§321-C Enforcement; administrative penalties.** (a) The
8 department may set, charge, and collect administrative fines and
9 recover administrative fees and costs, including attorney's fees
10 and costs, resulting from a violation of this part or any rule
11 adopted under this part.

12 (b) The department shall:

13 (1) Establish a policy and procedure to monitor compliance
14 with this part, including a complaint process;

15 (2) Respond to any complaint received by the department
16 concerning noncompliance by a hospital with the
17 requirements of section 321-B; and

18 (3) Provide written notice to any hospital that the
19 department determines is in violation of this part or
20 any rule adopted under this part, including an
21 opportunity to take corrective action.



1 (c) Any hospital that violates this part or any rule
 2 adopted under this part after receiving written notice and an
 3 opportunity to take corrective action pursuant to subsection
 4 (b) (3) shall be fined not more than \$1,000 for each separate
 5 offense.

6 (d) Sanctions under this section shall not be issued for
 7 violations occurring before July 1, 2012."

8 SECTION 3. In codifying the new sections added by section
 9 2 of this Act, the revisor of statutes shall substitute
 10 appropriate section numbers for the letters used in designating
 11 the new sections in this Act.

12 SECTION 4. This Act shall take effect upon its approval.

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Report Title:

Compassionate Care

Description:

Requires hospitals to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception.

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