
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 Definitions.** 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 or provider to a sexual
20 assault survivor 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;

5 (2) A provider as defined in this part; and

6 (3) A health facility as defined in section 323F-1.

7 "Medical care" means every type of care, treatment,
8 surgery, hospitalization, attendance, service, and supplies as
9 the nature of an injury or condition requires. Medical care
10 shall include outside consultation and referrals.

11 "Provider" means any entity that provides sexual assault
12 survivor services in a non-hospital setting.

13 "Sexual assault" means sexual penetration as defined in
14 section 707-700.

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

18 **§321-B Compassionate care.** (a) Any hospital that
19 provides emergency medical care to a sexual assault survivor
20 shall:



- 1 (1) Provide any female sexual assault survivor with
2 medically and factually accurate and unbiased written
3 and oral information about emergency contraception;
- 4 (2) Orally inform each female sexual assault survivor of
5 the option to receive emergency contraception at the
6 hospital;
- 7 (3) When medically indicated, provide emergency
8 contraception to each female sexual assault survivor
9 who requests it, including the initial dose that can
10 be taken at the hospital, and any further dosage as
11 necessary; and
- 12 (4) Ensure that each person at the hospital who may
13 provide emergency medical care shall be trained to
14 provide a sexual assault survivor with medically and
15 factually accurate and unbiased written and oral
16 information about emergency contraception and sexual
17 assault treatment options and access to emergency
18 contraception.
- 19 (b) No hospital shall deny a sexual assault survivor
20 emergency contraception based on a refusal to undergo a forensic
21 or other medical examination or a refusal to report the alleged
22 sexual assault to law enforcement.



1 (c) No hospital shall be required to provide emergency
2 contraception to a sexual assault victim who has been determined
3 to be pregnant through the administration by the hospital staff
4 of a pregnancy test approved by the United States Food and Drug
5 Administration.

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

10 (e) Providers shall:

11 (1) Have medically trained personnel, including registered
12 nurses, licensed social workers, and psychologists
13 ready to respond within thirty minutes of admission of
14 a sexual assault survivor;

15 (2) Provide medically accurate information;

16 (3) Provide transportation and the initial dose of
17 medication, and counseling services to the patient at
18 no cost to the provider; and

19 (4) Have staff available to provide services twenty-four
20 hours per day, seven days a week.

21 (f) The department shall adopt rules under chapter 91 for
22 the purposes of this part.



1 **§321-C Enforcement; administrative penalties.** (a) The
2 department may set, charge, and collect administrative fines and
3 recover administrative fees and costs, including attorney's fees
4 and costs, resulting from a violation of this part or any rule
5 adopted under this part.

6 (b) The department shall:

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

9 (2) Respond to any complaint received by the department
10 concerning noncompliance by a hospital or provider
11 with the requirements of section 321-B; and

12 (3) Provide written notice to any hospital or provider
13 that the department determines is in violation of this
14 part or any rule adopted under this part, including an
15 opportunity to take corrective action.

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

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



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

5 SECTION 4. This Act shall take effect on July 1, 2050.



Report Title:

Compassionate Care; Emergency Contraception

Description:

Requires hospitals and providers to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception, as well as access to emergency contraception. Requires providers to provide certain additional services. Effective July 1, 2050. (HB127 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

