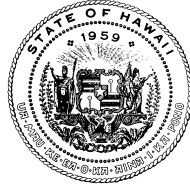


HTH HEARING

03-11-13

HB 411, HD2

TESTIMONY



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

In reply, please refer to:
File:

Senate Committee on Health

HB 0411, HD 2, Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

**Testimony of Loretta J. Fuddy, A.C.S.W., M.P.H.
Director of Health**

March 11, 2013

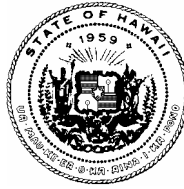
1 **Department's Position:** Supports but prefers the Administration Bill SB 1109, RELATING TO
2 HOSPITAL STANDARDS FOR SEXUAL ASSAULT VICTIMS.

3 **Fiscal Implications:** None or minimal to the Department of Health.

4 **Purpose and Justification:** This bill amends Department of Health (DOH) statute to require hospital
5 emergency rooms to offer female sexual assault survivors specific services and require appropriate
6 training for hospital staff. Enforcement is conducted through DOH Office of Health Care Assurance.

7

8 DOH prefers SB 1109, Relating to Hospital Standards for Sexual Assault Victims, which contains
9 various clarifications, corrections, and fixes jointly agreed to by DOH and the Department of Human
10 Services.



STATE OF HAWAII
DEPARTMENT OF HUMAN SERVICES

P. O. Box 339
Honolulu, Hawaii 96809-0339

March 11, 2013

TO: The Honorable Josh Green, Chair
Senate Committee on Health

FROM: Patricia McManaman, Director

SUBJECT: **H.B. 411, H.D. 2 – RELATING TO HOSPITAL EMERGENCY
COMPASSIONATE CARE FOR SEXUAL ASSAULT VICTIMS**

Hearing: Monday, March 11, 2013; 3:00 p.m.
Conference Room 229, State Capitol

PURPOSE: The purpose of this bill is to add a new part to chapter 321, Hawaii Revised Statutes, to ensure that victims of sexual assault are provided with medically and factually unbiased information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals for sexual assaults.

DEPARTMENT'S POSITION: The Department of Human Services (DHS) strongly supports this bill to ensure that victims of sexual assault are provided with medically and factually unbiased information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals for sexual assaults.

In the aftermath of rape, victims find themselves dealing with a host of reproductive and sexual health issues. The physical and emotional trauma suffered by victims is compounded by the possibility of an unwanted pregnancy as a result of the rape. The average rate of pregnancy resulting from rape is between five and eight per cent with an

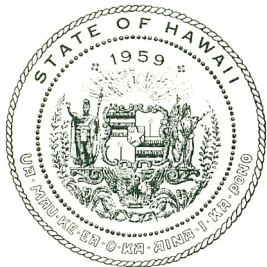
estimated thirty-two thousand rape-related pregnancies occurring every year in the United States.

Emergency contraception is not an abortion pill, nor does it cause any abortive process to take place. Emergency contraception is a safe and effective means of preventing pregnancy after a sexual assault. In fact, the provision of emergency contraception to victims of sexual assault is the most widely recognized and accepted standard of care for sexual assault patients. The American Medical Association and the American College of Obstetricians and Gynecologists have stated that sexual assault victims should be informed about and provided emergency contraception. However, a recent survey of emergency facilities in Hawaii revealed a lack of clear policy on the issue.

The Department of Human Services will pay for the necessary emergency contraception medications on a fee-for-service basis. It is estimated that the cost would be negligible, less than \$10,000. The Department of Human Services suggests that Section 321-B (5) be changed by deleting the word, "administer" and inserting the word, "dispense" to conform with other provisions contained in H.B. 411, HD2.

Thank you for the opportunity to testify on this measure.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
ADRIENNE KING
CARMILLE LIM
AMY MONK
LISA ELLEN SMITH
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March 11, 2013

Testimony in Support of HB 411, HD2, Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

To: Honorable Josh Green, M.D., Chair
Honorable Rosalyn H. Baker, Vice-Chair
Members of the Senate Committee on Health

From: Cathy Betts, Executive Director, Hawai'i State Commission on the Status of Women
Re: Testimony in Support of HB 411, HD 2

On behalf of the Hawai'i State Commission on the Status of Women, thank you for this opportunity to testify. I would like to express my strong support for HB 411, HD 2, which would ensure compassionate care for sexual assault victims by requiring emergency departments to offer information about emergency contraception and to dispense the medication when requested.

Seventeen states and the District of Columbia have all passed legislation requiring hospitals to comply with this nationally endorsed standard of care.¹ The American Medical Association and the American College of Obstetricians and Gynecologists have supported and endorsed a standard policy that victims be informed about and provided emergency contraception.^{2,3} Additionally, the Centers for Disease Control's treatment guidelines provide for offering emergency contraceptives to sexual assault survivors. Emergency contraception is a safe and effective FDA approved method of contraception to prevent pregnancy as the result of a rape. It is not an abortion pill, nor will it terminate an existing pregnancy.

While opponents of this measure may cite religious liberty as a cloak of protection, the hospitals in question are *institutions* receiving state and federal funding to provide health care to the general public. Institutions cannot substitute religious doctrine for the standard of care.

Individuals have the right to religious freedom, but that freedom does not include imposition of their beliefs on others when it will irrevocably harm others. Additionally, HB 411, HD 2 is a neutral law of general applicability and does not violate the free exercise clause.⁴

We should be clear: we are talking about rape victims, many of them under the age of 18. We are talking about young girls who have been molested, young women who have been brutally victimized, young women who are seeking healing and care. A victim of rape should not have to seek further medical care on her own because of an institution's denial of basic care. Please pass HB 411, HD 2, and in doing so, you will allow rape victims to continue on their path to healing. Thank you for this opportunity to testify.

¹ Guttmacher Institute, *State Policies in Brief: Emergency Contraception*, February 2013.

² See American Medical Association, *Strategies for the Treatment and Prevention of Sexual Assault* (1995).

³ See American College of Obstetricians and Gynecologists, Committee Opinion, Number 499, August 2011, at:

http://www.acog.org/Resources_And_Publications/Committee_Opinions/Committee_on_Health_Care_for_Underserved_Women/Sexual_Assault.

⁴ Employment Div., Dep't of Human Res. of Oregon v. Smith, 494 U.S. 872 (1990); See also, State v. Sunderland, 115 Haw. 396 (2007).

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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PHONE: (808) 547-7400 • FAX: (808) 547-7515

KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



**THE HONORABLE JOSH GREEN, CHAIR
SENATE COMMITTEE ON HEALTH
Twenty-Seventh State Legislature
Regular Session of 2013
State of Hawai`i**

March 11, 2013

RE: H.B. 411, H.D. 2; RELATING TO HOSPITAL EMERGENCY COMPASSIONATE CARE FOR SEXUAL ASSAULT VICTIMS.

Chair Green, Vice-Chair Baker and members of the Senate Committee on Health, the Department of the Prosecuting Attorney of the City and County of Honolulu submits the following testimony in support of House Bill 411, House Draft 2.

Sexual assault is one of the most traumatic crimes that target Hawai'i's women, and the fear of an unwanted pregnancy, as well as the potentially damaging medical and psychological effects that accompany it, can exponentially increase the level of harm that is inflicted upon victims. Those who have not experienced this horror cannot imagine the agony that victims experience. What these victims need is calm, caring, and supportive treatment that can help to lessen the traumatic effects of the sexual assault at a time when a victim may need to make many difficult decisions. Their ability to make the correct decisions for themselves is predicated on the availability of information that is accurate, thorough, and unbiased.

The requirements in this bill are reasonably related to addressing the acute medical, psychological, and emotional needs of sexual assault survivors. Furthermore, these provisions are consistent with the proper standard of professional care endorsed and recommended by the American Medical Association and the American College of Obstetrics and Gynecology.

In light of the foregoing, the Department strongly believes that all victims of sexual assault in Hawaii should have equal access to medically accurate information and options, to facilitate their decisions regarding medical care, as these decisions may affect the victim for a lifetime. To do any less, deprives victims of the opportunity for self determination, which must be provided to ensure their ability to transition from victim to survivor. Because sexual assault survivors have a very limited window of time in which to receive effective emergency

contraceptives, it is imperative that they receive access to this care upon arrival at any hospital in our state. The passage of H.B. 411, H.D. 2, will go a long way toward fulfilling our obligation to respond to sexual assault survivors in a compassionate and medically effective manner.

For all the reasons above, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly supports H.B. 411, H.D. 2. Thank you for your time and consideration.



THE SEX ABUSE TREATMENT CENTER

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

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Adriana Ramelli

Advisory Board

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Michael P. Matsumoto

Phyllis Muraoka

Gidget Ruscetta

DATE: March 11, 2013

TO: The Honorable Josh Green, M.D., Chair
The Honorable Rosalyn H. Baker, Vice Chair
Senate Committee on Health

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

RE: H.B. 411, H.D. 2
Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

Good afternoon Chair Green, Vice Chair Baker and members of the Senate Committee on Health. 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 Hawai'i Pacific Health.

SATC strongly supports H.B. 411, H.D. 2 to ensure sexual assault survivors are provided information about and access to emergency contraception.

Sexual violence remains a major public health issue here in Hawai'i. According to the Attorney General's report, *Crime in Hawai'i*, there were 353 reported forcible rapes in 2011.¹ However, sexual violence is severely underreported. The Department of Justice concluded that between 2006-2010 sixty-five percent (65%) of rapes and sexual assaults went unreported.²

The impact of sexual violence is significant. Survivors face not only emotional trauma, but very real physical consequences. According to one survey, becoming pregnant was a concern to more survivors than contracting sexually transmitted diseases or HIV/AIDS.³

Currently, there are hospitals in Hawai'i that do not provide information about emergency contraception or dispense emergency contraception to survivors of sexual assault. The American Medical Association,⁴ American College of Obstetricians and Gynecologists,⁵ and American College of Emergency Physicians⁶ all recommend that a survivor should be provided with information regarding emergency contraception and/or provided with treatment if indicated. With the passage of this legislation, a sexual assault survivor can be guaranteed to receive the same level of medical care regardless of what facility she presents at and the standard of care recommended by leading medical organizations.

As part of medical treatment provided to female survivors of sexual assault, we firmly believe survivors should be offered medically and factually accurate information (both

oral and written) on emergency contraception and be provided with contraception if the survivor so requests and if medically indicated. It is also important that medical staff serving female sexual assault survivors be adequately trained to provide complete, accurate and unbiased information on emergency contraception.

On O'ahu, those who seek services at SATC are provided the option of a comprehensive medical-legal examination, which is performed at KMCWC. As part of this examination, the attending physician offers female survivors information about emergency contraception. If the survivor is concerned about or at risk of an unwanted pregnancy, the physician can provide contraceptives if they are requested and medically indicated.

If a survivor does not want the comprehensive medical-legal examination, the survivor has the right to decline that examination. Thus, it is not always necessary or appropriate for medical facilities to refer a survivor to SATC for services. However, the survivor's immediate needs must still be met. Pregnancy prevention is a time sensitive issue, as emergency contraception is most effective when taken within 72 after an assault. Therefore, all hospitals in Hawai'i must commit to offering emergency contraception information to the sexual assault survivors they serve and to providing contraceptives to those who choose them.

We urge you to pass H.B. 411, H.D. 2. It is truly sound, compassionate legislation that underscores a woman's right to choose contraception when faced with the possibility of an unwanted pregnancy resulting from a sexual assault.

Thank you for this opportunity to testify.

¹ State of Hawai'i, Attorney General, Crime Prevention & Justice Assistance Division, Research & Statistics Branch, *Crime in Hawai'i: 2011*, at 4 (Nov. 2012), available at http://hawaii.gov/ag/cpja/main/rs/crimeinhawaii/CIH2011/Crime_in_Hawaii_2011.pdf

² U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Victimizations Not Reported to the Police, 2006-2010 National Crime Victimization Survey*, at 4, available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/vnvp0610.pdf>.

³ National Victim Center, *Rape in America: A Report to the Nation* (1992).

⁴ American Medical Association, Policy H-75.985 *Access to Emergency Contraception*.

⁵ American College of Obstetricians and Gynecologists, Committee on Health Care for Underserved Women, *Committee Opinion: Access to Emergency Contraception*, No. 542, at 1 (Nov. 2012).

⁶ American College of Emergency Physicians, *Management of the Patient with the Complaint of Sexual Assault* (reaffirmed Oct. 2008).



Committee: Committee on Health
Hearing Date/Time: Monday, March 11, 2013, 3:00 p.m.
Place: Conference Room 229
Re: Testimony of the ACLU of Hawaii in Support of H.B. 411, HD2

Dear Chair Green and Members of the Committee on Health:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 411, HD2, which requires hospitals to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception.

By expanding access to a critical, yet underutilized, means of pregnancy prevention, this bill would help ensure that Hawaii women are able to access comprehensive reproductive healthcare when they need it the most.

Emergency contraception (“EC”) is often misunderstood and underutilized. Emergency contraceptive pills are really just high doses of oral contraceptives, the birth control pills that millions of U.S. women take every day. EC has been proven highly effective in preventing unintended pregnancy when taken no more than 72 hours after unprotected intercourse; it is most effective when it is taken within 12 hours. EC works by preventing ovulation, fertilization, or implantation. It does not disrupt an established pregnancy, which the medical community defines as beginning with implantation. EC should not be confused with mifepristone (RU-486), a drug approved by the Food and Drug Administration in September 2000 for early abortion. EC prevents unwanted pregnancy. It does not induce an abortion.

Despite the tremendous potential of EC to drastically reduce unintended pregnancy, EC is not as available or as widely known as it should be. The bill you consider today would dramatically expand access to EC and provide a crucial boost to reproductive freedom and women’s health.

Women have limited access to EC in Hawaii; there are no 24-hour pharmacies on neighbor islands, so women are unable to get EC after hours unless they can get it from an emergency room.

H.B. 411, HD2 would vastly expand access to emergency contraception for women in Hawaii, with the potential to bring about a dramatic decrease in unintended pregnancies. We know that time is of the essence in ensuring the effectiveness of EC. This problem is exacerbated in rural areas of Hawaii with fewer medical resources. Indeed, no neighbor island has a 24-hour pharmacy. Even Oahu has only a handful of 24-hour pharmacies in Honolulu and Kaneohe.

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Chair Green and Members of the Committee on
Health
March 11, 2013
Page 2 of 3

Women who are raped after the pharmacies close may be unable to get emergency contraception except through an emergency room.

Research suggests that widespread fast access to EC would prevent nearly half of the unintended pregnancies in the United States, a number estimated to be as high as 2.5 million each year. Given the unacceptably high rates of unintended pregnancy, expanded access to EC is certainly an urgent public health priority.

H.B. 411, HD2 would mandate that emergency rooms counsel rape survivors concerning the availability of EC and, upon her request, provide EC on site. Perhaps nowhere is access to EC more urgently needed than in emergency rooms treating survivors of rape. Each year, more than 600,000 American women are raped, with an estimated 25,000 of those rapes resulting in pregnancy. As many as 22,000 of those pregnancies could be prevented by timely administration of emergency contraception.

The major medical organizations agree: rape survivors should be counseled about and offered EC. The American College of Obstetricians and Gynecologists (ACOG) recommends that physicians treating rape survivors, as part of their overall sexual assault exam, administer pregnancy tests and offer the patient EC. Likewise, in their guidelines for treating sexual assault survivors, the American Medical Association advises physicians to ensure that sexual assault patients are informed about and, if appropriate, provided EC. Quite simply, providing EC as part of sexual assault treatment is the standard of care.

Yet, despite this consensus, many hospitals fail to provide rape survivors with EC and some fail even to inform women about the available treatment.

A woman who has just survived rape is already in crisis and should not have to track down EC on her own, after she has undergone a rape exam in an emergency room. In addition to the emotional burdens of having to seek this medical care elsewhere, the rape survivor would face increased risk of pregnancy because of the delay inherent in having to find a pharmacist to dispense EC. By the time a woman arrives at an emergency room, hours may have already elapsed since the rape took place. In the time remaining before the 72-hour window expires, obtaining EC may be virtually impossible. Moreover, as the hours tick by, her chances of preventing pregnancy decrease.

Some health care institutions, invoking religious objections, refuse to provide EC. The ACLU of Hawaii is a staunch defender of religious liberty; however, we believe that an institution's religious objections to EC must not imperil a rape survivor's access to timely and comprehensive

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Chair Green and Members of the Committee on
Health
March 11, 2013
Page 3 of 3

treatment. Emergency rooms - 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.

A rape survivor is often taken to a hospital by the police or emergency medical technicians. Under these conditions, most women lack the time, information, and opportunity to assess a given hospital's EC policy and ask to be taken to a facility that provides EC. Nor should she be expected to do so after surviving such a brutal crime. EC is basic health care for rape survivors and religious objections cannot be allowed to stand against the urgent needs of a rape survivor. Moreover, hospitals 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 their care.

In short, a hospital's failure to provide EC unacceptably leaves women at risk for becoming pregnant as a result of the assault. This bill would ensure that hospitals abide by the standard of care when treating rape survivors. For all these reasons, the ACLU of Hawaii urges support for H.B. 411, HD2.

Thank you for this opportunity to testify.

Sincerely,
Laurie Temple
Staff Attorney and Legislative Program Director
ACLU of Hawaii

The American Civil Liberties Union ("ACLU") is our nation's guardian of liberty - working daily in courts, legislatures and communities to defend and preserve the individual rights and liberties that the Constitution and laws of the United States guarantee everyone in this country.

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**American Congress of Obstetricians and Gynecologists
District VIII, Hawaii (Guam & American Samoa) Section**

Lori Kamemoto, MD, MPH, FACOG, Chair
1319 Punahou Street, Suite 990
Honolulu, HI 96826



**March 11, 2013-Monday
3:00 PM
Conference Room 229
State Capitol**

**To: Senator Josh Green, Chair
Senator Roslyn Baker, Vice Chair
Senate Committee on Health**

**From: Lori Kamemoto, MD, MPH, Chair
Greigh Hirata, MD, Vice Chair
American Congress of Obstetricians and Gynecologists, Hawaii Section**

**Re: HB411HD2, Relating to Hospital Emergency Compassionate Care for Sexual
Assault Victims**

Position: Strongly Support

Dear Chair Green, Vice Chair Baker, and Senate Committee on Health Members:

The American Congress of Obstetricians and Gynecologists (ACOG), Hawaii Section, strongly supports HB411HD2, which ensures the provision of pregnancy prevention information and emergency contraception to victims of sexual assault in a timely manner. We urge you to pass this bill as is, without amendments, in support of Hawaii's rape victims who deserve to be treated within the standard of medical care.

Although the Food and Drug Administration first approved emergency contraception in 1998, unfortunately, there have been many barriers to the provision of emergency contraception, including misconceptions regarding how it works. Emergency contraception works through the prevention of ovulation. This means that emergency contraception works by preventing the release of the egg from the ovary, prior to fertilization. The American College of Obstetricians and Gynecologists reviews Emergency Contraception in this national publication, which states (ACOG Committee Opinion #542 Access to Emergency Contraception, page 1, paragraph 3):

“A common misconception is that emergency contraception causes an abortion. Inhibition or delay of ovulation is the principal mechanism of action. Review of evidence suggests that emergency contraception cannot prevent implantation of a

fertilized egg. Emergency contraception is not effective after implantation; therefore, it is not an abortifacient.”

This document goes on to review Recommendations, which includes encouraging legislation consistent with HB411 HD2 that states (page 3):

“Support legislation to increase access to emergency contraception by requiring that it be dispensed confidentially by all pharmacies and by requiring provision of emergency contraception for survivors of sexual assault.”

To be most effective in preventing ovulation, emergency contraception should be given as soon as possible after the rape has occurred and hours may matter. Therefore it is of great importance that all facilities have the ability to provide this to sexual assault victims in a timely manner.

The American College of Obstetricians and Gynecologists is clear in its support of the discussion and provision of emergency contraception for all sexual assault victims in the following national publication (ACOG Committee Opinion #499 Sexual Assault, page 3, paragraph 3):

“When the physical and medical-legal needs of the patient have been addressed, the health care provider should discuss with the patient the degree of injury and the probability of infection or pregnancy. Emergency contraception should be provided. Emergency contraception should be available in hospitals and facilities where victims of sexual assault at risk of pregnancy are treated.”

The National Violence Against Women survey by the U.S. Department of Justice revealed that there are more than 300,000 rape-related physical assaults against women annually. Approximately 18% of women surveyed reported that they had been the victim of a completed or attempted rape during their lifetime. In addition to acute traumatic physical injuries, sexually transmitted infections and many long-term health effects, sexual assault is also associated with a potential resulting pregnancy. The national rape-related pregnancy rate is calculated to be 5% per rape among females aged 12-45 years. This would be equivalent to about 32,000 pregnancies as a result of rape each year.

ACOG, Hawaii Section strongly supports the timely discussion of possible pregnancy resulting from sexual assault with all victims, and the timely provision of emergency contraception if desired, to be most effective in pregnancy prevention. Emergency contraception should be available in all hospitals and facilities where victims of sexual assault at risk of pregnancy are treated. Although we believe that the majority of health providers at facilities where sexual assault victims are treated already discuss and provide emergency contraception, this law is needed so we can be assured that **all** Hawaii’s sexual assault victims have timely access to emergency contraception regardless of the facility at which they are treated.

Religious groups have testified against this bill in the House, stating that emergency contraception is an abortifacient. The data shows that this is factually incorrect. Although there are articles published in standard medical journals that describe the mechanism of emergency contraception, it is important to note this Catholic Health

Association journal article titled “Plan B: How it Works, Science Shows it is Not an Abortifacient” (2010) that explains emergency contraception in lay language.

We urge your committee members to focus on supporting Sexual Violence Victims who do not have a direct voice in this legislative process. Sexual assault victims deserve the best care possible, including timely access to the discussion and provision of emergency contraception at the hospital or facility where they are treated.

Please let us know if you have any questions regarding this issue.

Thank you for the opportunity to provide this testimony.



HAWAII MEDICAL ASSOCIATION

1360 S. Beretania Street, Suite 200, Honolulu, Hawaii 96814
Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

DATE: Monday, March 11, 2013
TIME: 3:00 p.m.
PLACE: Conference Room 229
State Capitol
415 South Beretania Street

To:
COMMITTEE ON HEALTH
Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair

From: Hawaii Medical Association
Dr. Steven Kemble, MD, President
Dr. Linda Rasmussen, MD, Legislative Co-Chair
Dr. Joseph Zobian, MD, Legislative Co-Chair
Dr. Christopher Flanders, DO, Executive Director
Lauren Zirbel, Community and Government Relations

Re: HB 411 RELATING TO HOSPITAL EMERGENCY COMPASSIONATE CARE
FOR SEXUAL ASSAULT VICTIMS

In Support.

Chair & Committee Members:

Hawaii Medical Association supports this measure.

Emergency contraception is not an abortion pill, nor does it cause any abortive process to take place. Emergency contraception is a safe and effective means of preventing pregnancy after a sexual assault.

The American Medical Association and the American College of Obstetricians and Gynecologists have stated that sexual assault victims should be informed about and provided with the option of emergency contraception.

Mahalo for the opportunity to provide this testimony.

OFFICERS

PRESIDENT - STEPHEN KEMBLE, MD PRESIDENT-ELECT –WALTON SHIM, MD
SECRETARY - THOMAS KOSASA, MD IMMEDIATE PAST PRESIDENT – ROGER KIMURA, MD
TREASURER – BRANDON LEE, MD EXECUTIVE DIRECTOR – CHRISTOPHER FLANDERS, DO



ONLINE SUBMITTAL

Hearing on: March 11, 2013 @ 3:00 p.m.
Conference Room #229

DATE: March 11, 2013

TO: Senate Committee on Health
Sen. Josh Green, Chair
Sen. Rosalyn Baker, Vice Chair

FROM: Eva Andrade, Executive Director

RE: Opposition to HB 411 HD2 Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims (because conscience provisions are not included)

Honorable Chair and members of the Senate Committee on Health, I am Eva Andrade, **representing the Hawaii Family Forum**. Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii, representing a network of various Christian Churches and denominations.

It needs to be made very clear at the forefront that the Hawaii Family Forum fully supports the compassionate care of rape victims and the use of appropriate standards of care in emergency rooms. We oppose this measure, however, because we strongly believe that the government should never force religious institutions and/or individuals to act contrary to their strongly held moral and religious tenets or governance.

If the bill is passed as written, those who believe that certain forms of emergency contraception can cause an abortion will be forced to provide services that violates their conscience.

This bill renews a constant threat against the rights of many Christian and pro-life institutions and individuals regarding their beliefs about the sanctity of human life and sexuality. Moreover, the language in the bill in no way covers individuals who object to participating in the mandated services (but who will have no other choice after this law is imposed).

Many people in the community strongly believe that life begins at the moment of conception. Denying this fact, or ignoring it altogether, is bad public policy. We strongly recommend that at the very least, a conscience provision needs to be added to the bill so that the purpose and intent of this legislation can be achieved without infringing on the religious and moral rights of those who oppose the use of emergency contraceptives.

Mahalo for the opportunity to testify.



SENATE COMMITTEE ON HEALTH
Senator Josh Green, Chair

March 11, 2013 at 3:00 p.m.
Conference Room 229

Supporting HB 411 HD 2: Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, a majority of home health agencies and hospices, as well as long term care facilities and other health care organizations. Our members contribute significantly to Hawaii's economy by employing nearly 20,000 people statewide, delivering quality care to the people of Hawaii.

Thank you for this opportunity to testify in support of HB 411 HD 2, which requires hospitals to provide female sexual assault victims with information about emergency contraception and to offer them emergency contraception when medically indicated.

Hundreds of cases of forcible rapes were reported in Hawaii in 2011, and it is estimated that hundreds more went unreported. Survivors face not only emotional trauma, but also the potential of becoming pregnant, which is a significant concern of many. The American Medical Association, American College of Obstetricians and Gynecologists, and American College of Emergency Physicians all recommend that a survivor should be provided with information regarding emergency contraception and/or provided with treatment if indicated. This bill ensures that survivors of sexual assault who are treated at hospitals will receive the recommended care.

For the foregoing reasons, the Healthcare Association of Hawaii supports HB 411 HD 2.

**GAY LESBIAN
BISEXUAL AND
TRANSGENDER
CAUCUS**



**DEMOCRATIC
PARTY OF HAWAII**

March 8, 2013

Testimony in Support: HB411

To: Committee on Health: Senator Josh Green, Chair; Senator Rosalyn H. Baker, Vice Chair
Members of the Committee: Senators Suzanne Chun Oakland, Clarence Nishihara and Sam Slom

From: Jo-Ann M. Adams, Legislative Liaison

Re: *Hospital Emergency Compassionate Care for Sexual Assault Victims.*

The Gay Lesbian Bisexual and Transgender Caucus strongly supports HB411HD2, which requires emergency rooms (ER) to offer information about emergency contraception (EC) and dispense the medication when needed and requested.

Accepted Standard of Care. Providing EC in the ER is the accepted standard of care. American Medical Association's Guidelines state that victims should be informed about and provided EC. The American College of Obstetrics and Gynecology also supports this standard of care. A number of local physicians have submitted testimony in support of this bill.

Is EC currently available in Hawaii ERs? In 2010, the Coalition for Compassionate Care for Sexual Assault Victims distributed a survey to 26 emergency departments. Of the 15 surveys returned, only 6 reported a clear policy. Only 4 facilities always offered EC to sexual assault victims.

EC prevents pregnancy. EC are high dose contraceptives that, when taken a within a recommended time period, prevent pregnancy from occurring. EC is a safe and effective way to prevent a pregnancy; it does not terminate pregnancy. Even if it did result in an abortion, EC is taken within days of the incident, so it is well within the first trimester. Abortion in the first trimester is legal.

Sexual assault victims deserve access to complete, compassionate care after a sexual assault, wherever they present themselves for treatment.

Emergency contraception in the emergency room is part of the Democratic Party Platform, "Human and Civil Rights". It reads in pertinent part: "We believe in women's equality and right to privacy, including, but not limited to, equal access to reproductive services and care, shelter and counseling for victims of domestic violence, and the right of rape victims to emergency contraception in the emergency room." [underlining added]

We urge the Committee to pass HB411.

Thank you for your consideration.



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March 8, 2013

Testimony in Support: HB 411 HD2

To: Chair Josh Green, Vice Chair Roz Baker, and Members of the Senate Committee on Health

From: Katie Reardon Polidoro, Director of Public Affairs & Government Relations, Planned Parenthood of Hawaii

Re: Testimony in Support of HB 411 HD2 Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

Planned Parenthood of Hawaii (PPHI) strongly supports HB 411 HD2, which ensures compassionate care for sexual assault survivors in Hawaii by requiring that emergency departments throughout the state offer information about emergency contraception (EC) and dispense the medication when it is needed and the survivor requests it. Last week, when the House of Representatives passed HB 411 HD2, they passed a strong measure protecting Hawaii's women and girls. We urge the Committee to pass this bill unchanged so that Compassionate Care can finally become law in our state.

Survivors of Sexual Assault Deserve Compassionate Care at Hawaii's Hospitals

When a woman is sexually assaulted, she should be able to prevent pregnancy as the result of rape. EC prevents pregnancy and is the best, compassionate care that survivors deserve.

The crime of sexual assault is one that happens too frequently in the United States and in Hawaii. Nearly 1 in 5 of all women in the US will experience rape in their lifetime.¹ 2011 saw 83,245 reported forcible rapes throughout the country.² In Hawaii there were 353 reported forcible rapes.³ On the island of Oahu, that meant a rate of 21.1 rapes per 100,000 people.⁴ Alarming, the rate of sexual assault was considerably higher on neighbor islands, reaching as high as 48.7 per 100,000 residents on the island of Kauai.⁵ These numbers only represent those rapes that were reported to law enforcement. Major studies show that reporting rates for rape and sexual assault are approximately 46%.⁶ Still some studies have shown that rate to be as low as 16%.⁷ Therefore, the rate of sexual assault, both nationally and in Hawaii, is likely much higher.

¹ *National Intimate Partner and Sexual Violence Survey*, Centers For Disease Control, Nov. 2011, http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf.

² *Crime in the United States*, Federal Bureau of Investigations, 2011, <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-1>.

³ *Crime in Hawaii*, Hawaii Attorney General's Office, Nov. 2012, http://hawaii.gov/ag/cpja/main/rs/crimeinhawaii/CIH2011/Crime_in_Hawaii_2011.pdf

⁴ Id.

⁵ Id.

⁶ *National Crime Victimization Survey*, Bureau of Justice Statistics, US Department of Justice, 2006-2010.

⁷ National Center for Victims of Crime & Crime Victims Research and Treatment Center, *Rape in America: A Report to the Nation*, (1992).

Honolulu Health Center

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Kailua Kona Health Center

75-184 Hualalai Road, Suite 205
Kailua Kona, HI 96740
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Kahului (Maui) Health Center

140 Ho'ohana Street, Suite 303
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(A Maui United Way Agency)

When those survivors seek emergency medical care in one of Hawaii's hospitals, they expect to receive the basic standard of care. The American Medical Association⁸ and the American College of Obstetrics and Gynecology⁹ have long recognized EC as the standard of care for emergency treatment of sexual assault victims. However, some hospitals in Hawaii do not offer EC, or even provide information about it, leaving survivors at risk for pregnancy resulting from 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. 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.¹⁰ A total of 32.4% of these victims did not discover they were pregnant until they had already entered the second trimester; 32.2% decide to raise the child, 50% underwent an abortion and 5.9% placed the infant for adoption; and an additional 11.8% experienced miscarriage.¹¹

Providing EC in Emergency Rooms is the Standard of Care

EC is a safe and effective way to prevent a pregnancy as the result of a rape. EC is a high dose hormonal contraceptive that, when taken within 120 hours (or 5 days) of unprotected sex, can prevent pregnancy. It is most effective the earlier it is taken, with a 99% efficacy rate when taken within 12 hours, 82% within 72 hours, and decreasing thereafter.

EC works to prevent pregnancy primarily by preventing ovulation from occurring.¹² EC may also be effective after ovulation. The hormones in EC cause a thickening to the cervical mucus, which prevents sperm from fertilizing the egg, thereby preventing pregnancy.¹³ There has been uncertainty as to whether EC will prevent a fertilized egg from implanting onto the uterine lining, and no conclusive data has been able to support that effect. In fact, more recent studies have suggested that it is unlikely that EC will prevent a fertilized egg from implanting or have any effect post-fertilization.¹⁴ EC is not an "abortion pill." It will not terminate an existing pregnancy.¹⁵

Providing EC in the emergency room is the accepted standard of care. In 1995, the American Medical Association issued guidelines for treating sexual assault patients stating that survivors should be informed about and provided EC.¹⁶ The American College of Obstetrics and Gynecology has supported this standard of care since 2004.¹⁷

⁸ American Medical Association, *Strategies for the Treatment and Prevention of Sexual Assault* (1995).

⁹ 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.

¹⁰ 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).

¹¹ *Id.*

¹² *Emergency Contraception Fact Sheet*, US Department of Health and Human Services, Office on Women's Health, <http://womenshealth.gov/publications/our-publications/fact-sheet/emergency-contraception.cfm>.

¹³ *Id.*

¹⁴ *Id.*, See Also: Rev. Nicanor Pier Giorgio Austriaco, "Is Plan B an Abortifacient? A Critical Look at the Scientific Evidence", *The National Catholic Bioethics Quarterly*, (Winter 2007).

¹⁵ *Emergency Contraception Fact Sheet*

¹⁶ See, American Medical Association, *Strategies for the Treatment and Prevention of Sexual Assault* (1995).

¹⁷ 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.

Sixteen states and the District of Columbia have adopted legislation requiring the provision of information about and/or access to EC to sexual assault survivors in emergency rooms.¹⁸ The Federal Government now requires all military and federal hospitals to stock EC.¹⁹ The Army Medical Command Regulations advise discussing and providing EC to sexual assault survivors.²⁰

Hawaii's Women and Girls are Harmed by Hospitals that Deny EC

In 2010, a coalition of organizations called the Coalition for Compassionate Care for Sexual Assault Victims²¹ (CCSAV) distributed a survey to 26 emergency departments in Hawaii. Of the 15 surveys returned, only 6 respondents were aware that their facility had a clear policy on EC. Only four facilities said that they have a clear policy and always offer it to survivors of sexual assault. Three hospitals said they never dispense EC. Two responded that they only provide EC if the patient has a prescription and two facilities said EC is only offered some of the time. The lack of consistent policy among Hawaii's emergency departments is deeply concerning.

Many women in Hawaii, especially those living on neighbor islands and in rural areas, do not have access to a pharmacy that is open 7 days a week or 24 hours a day. Depending on when a woman seeks care, this might mean a wait of up to 48 hours before she can obtain EC. As noted above, EC is most effective when taken early, and efficacy decreases over time. When asked to seek EC somewhere else, survivors are put at risk for unwanted pregnancy.

Further, younger women have more difficulty obtaining EC outside of the emergency room. Minors under the age of 17 must have a written prescription to purchase EC. Hawaii allows some pharmacies who participate in the Department of Health's Emergency Contraception Oral Drug Therapy Program, to partner with local physicians to offer prescriptions for EC to these young women. However, many pharmacies do not participate in the program, and on some of our islands, none do.²² Considering the pervasiveness of sexual assault among younger women, it is even more urgent that EC be available in emergency rooms. According to the CDC among victims of completed rape, 42.2% were assaulted prior to age 18.²³

Denying EC also exacerbates emotional trauma. The prospect of being denied medical care, having one's health care decisions judged, and having to re-tell the story of the rape is discouraging and damaging to victims. A 2005 study found: Survivors who experience negative reactions when first disclosing their sexual assault are more likely to experience PTSD and less likely to make subsequent disclosures.²⁴ Survivors who were required to make multiple disclosures, regardless of negative reactions, suffered from more acute PTSD symptoms.²⁵

Conclusion

¹⁸ States Include: AR, CA, CO, CT, DC, IL, MA, MN, NJ, NM, NY, OR, SC, TX, UT, WA, WI.

¹⁹ See, Department of Defense, *Pharmacy and Therapeutics Committee Recommendations*, November 2009, Signed February 2010.

²⁰ See, Army Medical Command Regulation, 40-36, Part 17, January 2009.

²¹ CCSAV members include: ACLU of Hawaii, Healthy Mothers Health Babies Coalition of Hawaii, Planned Parenthood of Hawaii and the Sex Abuse Treatment Center.

²² On Hawaii Island, 11 pharmacies participate. All but two are located in Kailua-Kona or Hilo, leaving young victims on much of the Island without access. On Maui, 11 pharmacies participate. All are on the North/West side of the island, leaving teen victims elsewhere without access. On Kauai, only 2 pharmacies participate. They are located in Kapaa and Lihue. On Lanai, no pharmacies are able to give EC to victims under 17. On Molokai, no pharmacies are able to give EC to victims under 17.

²³ *National Intimate Partner and Sexual Violence Survey*, 2011.

²⁴ Starzynski, L. L. Ullman, S. E., Filipas, H. H., Townsend, S. M. (2005). Correlates of women's sexual assault disclosure to informal and formal support sources. *Violence and Victims*, 20, 417-432.

²⁵ *Id.*

Hawaii's women deserve better. In light of the violence every sexual assault survivor experiences, denying a sexual assault victim proper care is unconscionable. When a survivor seeks care in one of Hawaii's hospitals, she should be given the information she needs to make decisions about her health, and should rely on the fact that her right to make those decisions will not be compromised by someone who does not walk in her shoes. Therefore we urge the Committee to pass HB 411. Thank you.



46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Co-founder/Legislative Director

**TESTIMONY FOR HOUSE BILL 411, HOUSE DRAFT 2, RELATING TO
HOSPITAL EMERGENCY COMPASSIONATE CARE FOR SEXUAL
ASSAULT VICTIMS**

**Senate Committee on Health
Hon. Josh Green, Chair
Hon. Rosalyn H. Baker, Vice Chair**

**Monday, March 11, 2013, 3:00 PM
State Capitol, Conference Room 229**

Honorable Chair Green and committee members:

I am Kris Coffield, representing the IMUAlliance, a nonpartisan political advocacy organization that currently boasts over 150 local members. On behalf of our members, we offer this testimony in strong support of, with proposed amendments for HB 411, relating to hospital emergency compassionate care for sexual assault victims.

Four decades after *Roe v. Wade*, women are facing unprecedented challenges to their reproductive rights. In Mississippi, for example, the State Legislature passed HB 1390, requiring abortion providers to gain hospital admitting privileges. This has led to the closure of all but one of the state's abortion clinics, in Jackson, because of concerns that granting admitting privileges would, to quote one hospital, "lead to both an internal and external disruption of the Hospital's function and business within this community." If the Jackson clinic closes, as seems likely at the time of this hearing, the 2,000 women who go there for abortions each year will need to travel out-of-state, being forced to pay additional money for bus fare or gas, as well as childcare, all while losing wages due to travel. There will also be hotel fees: Many nearby states require a 72-hour waiting period between a state-mandated counseling session and an abortion. On top of this, abortion procedures, in the South, can cost \$450 or more. Similarly, Virginia was one of several states, last year, to propose medically unnecessary, painful, vaginal-probe ultrasounds as a mandated precursor to abortion, bringing shame upon the state's lawmakers and executive branch. While this bill does not deal with such intrusive procedures or

cutbacks to reproductive rights, make no mistake, the opponents of this measure are, by and large, likeminded anti-choice activists seeking to compartmentalize women's health within the sphere of religious dogma.

Contrary to the views of its opponents, HB 411 does not impugn religious liberty. Instead this bill requires emergency rooms to provide all sexual assault survivors with medically accurate information about emergency contraceptives and administer such contraceptives *if, and only if, a victim chooses, acting out of their personal volition and beliefs about reproductive health.* In 2011, 18.3 percent of women over 18-years-old reported being sexually assaulted in their lifetime, according to research conducted by the American Statistical Association. By comparison, only 17.4 percent of women reported smoking. Allow us to restate that comparison in stark terms: In the United States, rape may be more common than smoking. Other statistics similarly evince the troubling frequency of sexual assault. In 2009, 125,910 rape cases were reported in the United States. Crime In Hawaii reports that, in 2011, there were 434 forcible rapes in Hawaii, victims of which were often in need of medical care at local hospitals and emergency rooms. Finally, a famous study of rape-resultant pregnancy, entitled “Are per-incident pregnancy rates higher than per-incident consensual pregnancy rates?” and published in the peer-reviewed science journal *Human Nature*, found that 6.4 percent of women suffering a single incident of forcible rape (in a given year) became pregnant after being victimized, compared with only 3.1 percent of women who experienced a single incident of consensual sex. Thus, rape may result in pregnancy at double the rate of consensual sex, making the provision of contraception upon request mandated by this bill all the more urgent.

That said, for the purpose of consistency, we encourage you to amend proposed subsection §321-B(a)(5) to read: “(5) Ensure that each person at the hospital who may prescribe, administer, **or dispense** emergency medical care shall be trained to provide a sexual assault victim with medically and factually accurate and unbiased written and oral information about emergency contraception and sexual assault treatment options and access to emergency contraception.” This amendment would similarly clarify that all medical personnel with whom a sexual assault victim may interact, including emergency care physicians and nurses, are required to provide medically accurate contraceptive information—not just the individual providing the contraceptives to the patient—thereby safeguarding against potential circumvention of the law by medical professionals who interact with sexual assault patients, but are not responsible for administering

contraceptive pills. Put simply, pills can be self-administered, by not self-dispensed, so we prefer that the term “dispense” be used to avoid confusion.

Additionally, we are heartened that this bill defines sexual assault, compulsion, and strong compulsion within the bill, rather than by cobbling together citations, references, and language from external statutes into a definition that may confuse the measure's mandates or, worse, be inappropriately used to circumvent the provision of contraception. We feel, however, that all victims of sexual assault should be offered emergency reproductive care, not just those exhibiting or expressing signs of nonconsensual vaginal penetration. Studies have shown that rape victims are often traumatized and, at times, have trouble remembering details of their assault or admitting the extent of their attack. Sex-trafficking victims, for example, are repeatedly brutalized and coerced into performing sexual acts, to the point that many victims recognize sexual assault not as a crime against their person, but view it as normal sexual behavior. In our opinion, the only way to ensure that all penetrative sexual assault victims receive compassionate care is to ensure that victims of all *forms* of sexual assault—under HRS 707-730, 707-731, and 707-732—are offered contraception, thereby allowing victims to make personal health choices based on self-assessment and emotional preparedness.

Mahalo for the opportunity to testify in strong support of this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance



TO: Chair Green
Vice Chair Baker
Members of the Committee on Health

FR: Nanci Kreidman, M.A.

RE: HB 411, HD 2

Good afternoon. We submit this testimony in support of HB 411, HD1. The availability of comprehensive and responsive services to survivors of sexual violence is critically important. The community responsibility and importance of meeting the needs of victims of violent crime cannot be overstated. Preventing unwanted pregnancy is among those needs.

This work to meet the needs of those suffering the psychological and physiological effects of sexual assault belongs to all of us. The difficulty in having these complex needs understood, and the right to supportive and effective treatment remain stunning.

The collective community voices are significant and growing. The support from our legislative leaders and health care providers is essential in the approach to supporting survivors of violent crimes.

Thank you for your ongoing work to address the issue and provide what is needed for those traumatized by sexual violence.

Mahalo for the opportunity to share our perspective on HB 411, HD2.

NEIL ABERCROMBIE
GOVERNOR



STATE OF HAWAII
**CRIME VICTIM COMPENSATION
COMMISSION**

1136 Union Mall, Suite 600
Honolulu, Hawaii 96813
Telephone: 808 587-1143
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MARI MCCAIG
Chair

THOMAS T. WATTS
Commissioner

L. DEW KANESHIRO
Commissioner

PAMELA FERGUSON-BREY
Executive Director

TESTIMONY IN SUPPORT OF HOUSE BILL 411, HD2
RELATING TO HOSPITAL EMERGENCY COMPASSIONATE CARE
FOR SEXUAL ASSAULT VICTIMS

By

Pamela Ferguson-Brey, Executive Director
Crime Victim Compensation Commission

Senate Committee on Health
Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair

Monday, March 11, 2013; 3:00 PM
State Capitol, Conference Room 229

Chair Green, Vice Chair Baker, and Members of the Senate Committee on Health:

Thank you for providing the Crime Victim Compensation Commission ("Commission") with the opportunity to testify before you today. The Commission strongly supports HB 411 HD2, Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims.

The Commission was established in 1967 to mitigate the suffering and financial impact experienced by victims of violent crime by providing compensation to pay un-reimbursed crime-related expenses. Many victims of violent crime could not afford to pay their medical bills, receive needed mental health or rehabilitative services, or bury a loved one if compensation were not available.

The Commission strongly supports HB 411 HD2, which establishes a new part in HRS Chapter 321 to ensure that victims of sexual assault are provided with medically and factually unbiased information about, and access to, emergency contraception when receiving emergency medical care at Hawai'i's hospitals for sexual assaults. Providing emergency contraception to victims of sexual assault is the accepted standard of care recommended by leading national medical organizations including the American Medical Association and the American College of Obstetricians and Gynecologists. The Commission strongly believes that all victims of sexual assault, regardless in what hospital they are treated at in the state, should have equal access to medically accurate and factual information in order to make informed decisions about their medical care in the aftermath of a traumatic rape.

Thank you for the opportunity to testify in favor of House Bill 411 HD2.

Testimony of Phyllis Dendle

Before:
Senate Committee on Health
The Honorable Josh Green, M.D., Chair
The Honorable Rosalyn H. Baker, Vice Chair

March 11, 2013
3:00 pm
Conference Room 229

**HB 411 HD2 RELATING TO HOSPITAL EMERGENCY COMPASSIONATE CARE
FOR SEXUAL ASSAULT VICTIMS**

Chair Green and committee members, thank you for this opportunity to provide testimony on HB 411 HD2 regarding providing emergency contraception in hospital emergency medicine departments.

Kaiser Permanente Hawaii supports this bill in its current draft.

We appreciate the amendments made by the House and now support the bill as written. The amendments made to the senate version of this bill created significant unintended consequences so we urge this committee to pass this house bill in its current form.

At Kaiser Permanente Hawaii we are always concerned about the effect of legislation that specifically directs the actions of physicians and other health care providers. We think that in most cases medical decisions should be made by the provider and patient and should not be specifically directed by law. That being said we recognize that this bill addresses a very serious issue and patients may benefit by having the care provided though out the community be standardized.

Thank you for your consideration.

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WWW.HONOLULUPRIDEPARADE.ORG – HONOLULUPRIDEPARADE@GMAIL.COM

March 9, 2013

Monday, March 11, 2013 – 3:00 p.m.

Senate's Committee on Health

State Capitol – Room 229

415 South Beretania Street

Honolulu, HI 96813

RE: STRONG SUPPORT for House Bill 411 HD2

Aloha Chairperson Rhoads and fellow committee members,

Honolulu Pride is Hawaii's oldest and largest lesbian, gay, bisexual, transgender, queer, questioning, and intersex (LGBTQI) pride and advocacy organization in the State of Hawai'i. We are writing to you in STRONG SUPPORT of House Bill 411 HD 2.

HB 411 HD 2 would establish a new part in chapter 321, Hawaii Revised Statutes, to ensure that sexual assault victims are provided with medically and factually unbiased information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals.

After experiencing one of the most traumatic events that no person should EVER go through the last thing a female survivor of rape should have to worry about is if they are going to be offered ALL relevant medical care and that includes Emergency Contraception.

It is a shame that we even have a need for this bill. There is supposed to be a bond that all medical professionals will see that their patients receive the best and medically accurate care that their facility has to offer. No medical professional or organization should filter out any medicine just because they have a personal prejudice against Emergency Contraception based on some outdated and scientifically inaccurate preconception.

Some think that HB 411 HD 2 is not an LGBT issue and nothing could be further from the truth. But even if this were not a LGBT issue we would still be here in support of HB 411 HD 2 because it is the right thing to do. But here is why HB 411 HD 2 is a LGBT issue - lesbians and members of the transgender community are raped. Ignorant, homophobic men are under the horrific fallacy that they think they can rape lesbians straight. Members of the transgender community are raped because their attackers think that they can rape them into the gender that the attackers wants them to be and not who they are.

HONOLULU PRIDE – HB 411 HD 1

Regardless of the inexcusable cop-out behind any rape no survivor should have to relive their attack. Can you think of anything that would be a bigger reminder of a rape then to find out that your attacker had impregnated you? We surely cannot.

Emergency Contraception is not an abortion it just ensures that if an egg becomes fertilized from the rape that it cannot implant in the uterine wall. That way a survivor of rape will not have to make the decision if they will have an abortion or carry their rapist's fetus to term. A decision that no survivor should have to make and they would not have to make it if Emergency Contraception was required to be offered to survivors of rape.

So for all these reasons we ask that you protect survivors of rape and pass HB 411 HD 2.

Mahalo for the opportunity to testify.

Rob Hatch
Honolulu Pride
Legislative Representative

HAWAII FAMILY ADVOCATES

DATE: March 8, 2013
TO: Senate Committee on Health
Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair
RE: **Opposition/Comments on HB 411 HD2**
Hearing Monday, 3/11/13, 3:00 pm Rm. 229

My name is James Hochberg, and I have been a civil rights attorney in Honolulu since 1984. Currently I am also the president of Hawaii Family Advocates, a 501©(4) independent expenditure, non-candidate committee.

BOARD DIRECTORS

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Director

I am testifying in opposition to HB411 HD2 because it seeks to:

- 1) **Pronounce the State orthodoxy on the question of when life begins;**
- 2) **Trample on the rights of conscience of people who disagree with this State-pronounced Orthodoxy as to when life begins on the basis of religious belief; and**
- 3) **Potentially keep The Queens Health System from reopening the hospital in central Oahu.**

For those who do not agree that life begins at implantation of the fertilized egg into the uterine wall, they cannot comply with the requirements of HB411 HD2. As a physician, you must agree that there is at this point in time, no agreed to orthodoxy as to the answer to the question when does life begin. The text of HB 411 HD2 states that

“Emergency contraception is not an abortion pill, nor does it cause any abortive process to take place. Emergency contraception is a safe and effective means of preventing pregnancy after a sexual assault. In fact, the provision of emergency contraception to sexual assault victims is the most widely recognized and accepted standard of care for sexual assault victims. The American Medical Association and the American College of Obstetricians and Gynecologists have stated that sexual assault victims should be informed about and provided emergency contraception.”

HAWAII FAMILY ADVOCATES

In order for the first two sentences of this statement to be medically and scientifically true, one must take the medically and scientifically disputed position that life begins at implantation of the fertilized egg into the uterine wall. However, according to a February 2012 study that was published in the American Journal of Obstetrics and Gynecology, the preponderance of opinion on the question of when life actually begins indicated that 57% of the respondents actually believe that life begins at conception, not implantation. Attached hereto is a copy of the Abstract of that study.

The Food and Drug Administration product warning materials for the Emergency Contraceptive containing the hormone levonorgestrel says that it “works like a birth control pill to prevent pregnancy mainly by stopping the release of an egg from the ovary. It is possible that Plan B® may also work by preventing fertilization of an egg (the uniting of sperm with the egg) **or by preventing attachment (implantation) to the uterus (womb),** which usually occurs beginning 7 days after release of an egg from the ovary.” (emphasis added)

See: http://www.accessdata.fda.gov/drugsatfda_docs/label/2006/021045s0111bl.pdf

Consequently, HB411 HD2 seeks to establish this false orthodoxy starting at page one, line 12. This is not the role of the legislature. For those emergency room workers whose religious belief includes that conception occurs at fertilization, their religious beliefs must be permitted to shield them from having to provide emergency contraception to sexual assault victims. This is not really a huge protection to ask for since many in the emergency room will be willing to provide the information and medication.

A number of Federal statutes protect health care provider conscience rights with respect to the issue of **abortion**. See the Church Amendments, Public Health Service Act Section 2445, The Weldon Amendment and the Affordable Care Act discussed on the attached HHS web page. However, the orthodoxy set forth in HB411HD2 says this medication does not cause an abortion. In that circumstance, these federal protections would not apply. Therefore, a particularly stated conscience protection should be added to HB411 HD2.

In addition, HB411 HD2 requires, beginning on page 4 line 5, that medically and factually accurate and unbiased written and oral information about emergency contraception be given to female sexual assault survivors who present for emergency services. However, according to the study cited above, HB411HD2 itself is a biased presentation of the medical and factual information concerning what emergency contraceptives do with respect to ending a life.

This statement squarely applies to HB411HD1. Without a religious exemption, HB411HD1 mandates the orthodoxy on the disputed question of when life begins, and consequently

what emergency contraceptives do with respect to ending a life. Tolerance for both beliefs is required, and on that basis I oppose HB411 HD1 without a clear religious exemption.

There is, however, an equally important reason to provide institutional conscience protections as well. St. Francis Healthcare System testified on February 22, 2013 strongly opposed to HB411 HD1 before the House Committee on Judiciary. St. Francis weighed into this because, even though it does not presently operate an emergency center that would be bound by this statute were it to become law, the sale of the real property assets of St. Francis (St. Francis West) to The Queen's Medical Center included the promise by Queen's to operate the hospital pursuant to the moral, ethical and social teachings of the Roman Catholic Church.

The St. Francis Healthcare System testimony (attached) provided in pertinent part:

St. Francis Properties

The St. Francis Healthcare System of Hawaii does not presently own or operate any emergency service providers or hospitals. As a part of the sale of St. Francis' West Oahu Medical Center real property assets to The Queen's Medical Center, Queen's Medical has contractually agreed with St. Francis to operate its West Oahu hospital and medical facilities in the spirit of a Catholic Health Care facility and pursuant to the moral, ethical and social teachings of the Roman Catholic Church. This contractual undertaking by Queen's Medical was an essential condition to St. Francis' agreement to sell to Queen's Medical, as it will ensure the continuance of the precepts that are at the very core of St. Francis' ministry in Hawaii. St. Francis would not have sold the West Oahu Medical Center to Queen's Medical without this legal obligation upon Queen's Medical. Among the most important of the Ethical and Religious Directives for Catholic Health Care Services that Queen's Medical has agreed to observe is the respect for life from the time of conception to natural death.

....

While recognizing the vulnerability of the patient, we simply ask that hospitals not be mandated to provide specific medications, especially if providing it is a direct violation of a hospital's ethical directives.

Religious Freedom


The St. Francis Healthcare System is confident that this committee can appreciate that religious freedom is what is at stake here and that there must be a way that the needs of patients and providers can be met. Standardizing the information given and ensuring access to care are issues we can support. We hereby respectfully request that you not ask

HAWAII FAMILY ADVOCATES

us to violate a core ethical directive and compromise our agreement with the Diocese of Honolulu and the Roman Catholic Church

The residents of central and west Oahu **MUST** be served by a hospital with emergency services in their area. There is no reason to use this bill to imperil the ability or willingness of The Queen's Medical Center to reopen the hospital for fear of violating the contract with St. Francis or violating the law created by this bill becoming a statute. The simple fix is to provide an institutional conscience exemption for any Hospital bound by religious or moral concerns with E.C. that would cause the hospital to not want to dispense or discuss emergency contraceptives.

Sincerely,


James Hochberg, Esq.
President

Display Settings: Abstract



Am J Obstet Gynecol. 2012 Feb;206(2):132.e1-7. doi: 10.1016/j.ajog.2011.10.877. Epub 2011 Nov 7.

Obstetrician-gynecologists' beliefs about when pregnancy begins.

Chung GS, Lawrence RE, Rasinski KA, Yoon JD, Curlin FA.

Section of General Internal Medicine, Department of Medicine, The University of Chicago, Chicago, IL 60637, USA.
gchung@uchicago.edu

Abstract

OBJECTIVE: The purpose of this study was to assess obstetrician-gynecologists' regarding their beliefs about when pregnancy begins and to measure characteristics that are associated with believing that pregnancy begins at implantation rather than at conception.

STUDY DESIGN: We mailed a questionnaire to a stratified, random sample of 1800 practicing obstetrician-gynecologists in the United States. The outcome of interest was obstetrician-gynecologists' views of when pregnancy begins. Response options were (1) at conception, (2) at implantation of the embryo, and (3) not sure. Primary predictors were religious affiliation, the importance of religion, and a moral objection to abortion.

RESULTS: The response rate was 66% (1154/1760 physicians). One-half of US obstetrician-gynecologists (57%) believe pregnancy begins at conception. Fewer (28%) believe it begins at implantation, and 16% are not sure. In multivariable analysis, the consideration that religion is the most important thing in one's life (odds ratio, 0.5; 95% confidence interval, 0.2-0.9) and an objection to abortion (odds ratio, 0.4; 95% confidence interval, 0.2-0.9) were associated independently and inversely with believing that pregnancy begins at implantation.

CONCLUSION: Obstetrician-gynecologists' beliefs about when pregnancy begins appear to be shaped significantly by whether they object to abortion and by the importance of religion in their lives.

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Comment in

Influence of religious beliefs in the professional practice of US gynecologists.

PMID: 22177187 [PubMed - indexed for MEDLINE]

Publication Types, MeSH Terms, Grant Support

LinkOut - more resources

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U.S. Department of Health & Human Services

Improving the health, safety, and well-being of America

Civil Rights

Overview of Federal Statutory Health Care Provider Conscience Protections

A number of Federal statutes protect health care provider conscience rights. The Church Amendments, Section 245 of the Public Health Service Act, and the Weldon Amendment, collectively known as the "[federal health care provider conscience protection statutes](#)," prohibit recipients of certain federal funds from discriminating against health care providers based on their refusal to participate in certain health care services they find religiously or morally objectionable.

- **[The Church Amendments](#)**

The conscience provisions contained in [42 U.S.C. § 300a-7 et seq.](#), collectively known as the "Church Amendments," were enacted in the 1970s to protect the conscience rights of individuals and entities that object to performing or assisting in the performance of abortion or sterilization procedures if doing so would be contrary to the provider's religious beliefs or moral convictions. This provision also extends protections to personnel decisions and prohibits any entity that receives a grant, contract, loan, or loan guarantee under certain Department-implemented statutes from discriminating against any physician or other health care personnel in employment because the individual either performed, or refused to perform an abortion if doing so would be contrary to the individual's religious beliefs or moral convictions.

- **[Public Health Service Act § 245](#)**

Enacted in 1996, section 245, contained in [42 U.S.C. § 238\(n\)](#), prohibits the federal government and any state or local government receiving federal financial assistance from discriminating against any health care entity on the basis that the entity: 1) refuses to undergo training in the performance of induced abortions, to require or provide such training, to perform such abortions, or to provide referrals for such training or such abortions; 2) refuses to make arrangements for such activities; or 3) attends (or attended) a post-graduate physician training program, or any other program of training in the health professions, that does not (or did not) perform induced abortions or require, provide, or refer for training in the performance of induced abortions, or make arrangements for the provision of such training.

- **[The Weldon Amendment](#)**

[Weldon Amendment](#) was originally passed as part of the HHS appropriation and has been readopted (or incorporated by reference) in each subsequent HHS appropriations act since 2005. It provides that "[n]one of the funds made available in this Act [making appropriations for the Departments of Labor, Health and Human Services, and Education] may be made available to a Federal agency or program, or to a state or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions." It also defines "health care entity" to include "an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan."

- **[The Affordable Care Act](#)**

The Affordable Care Act ([Pub. L. No. 111-148 as amended by Pub. L. No. 111-152](#)) includes new health care provider conscience protections within the health insurance Exchange program. Section 1303(b)(4) of the Act provides that "No qualified health plan offered through an Exchange may discriminate against any individual health care provider or health care facility because of its unwillingness to provide, pay for, provide coverage of, or refer for abortions." A recent Executive Order affirms that under the Affordable Care Act, longstanding federal health care provider conscience laws remain intact, and new protections prohibit discrimination against health care facilities and health care providers based on their unwillingness to provide, pay for, provide coverage of, or refer for abortions. Executive Order 13535, "Ensuring Enforcement and Implementation of Abortion Restrictions in the Patient Protection and Affordable Care Act" (March 24, 2010).

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U.S. Department of Health & Human Services · 200 Independence Avenue, S.W. · Washington, D.C. 20201



St. Francis

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

LATE

HOUSE COMMITTEE ON JUDICIARY

Representative Karl Rhoads, Chair
Representative Sharon E. Har, Vice Chair

DATE: February 22, 2013
TIME: 2:00 P. M.
PLACE: Conference Room 325
State Capitol
415 South Beretania Street

STRONG OPPOSITION TO HB 411 – Relating to Hospital Emergency
Compassionate Care for Sexual Assault
Victims

The Sisters of St. Francis

The St. Francis Healthcare System is Hawaii's only Catholic healthcare system. We currently provide Home and Community-based services such as Home Care, Hospice and Palliative Care, Lifelines, Bathing services, and senior day care and housing. We are sponsored by the Sisters of St. Francis of the Neumann Communities of Syracuse, New York and are the legacy of the Sisters' commitment to the people of Hawaii for the past 128 years, beginning with Saint Marianne Cope and her courageous ministry in Kalaupapa. **The Sisters are here in Hawaii with the permission of the Bishop of the Catholic Diocese of Honolulu.** They must abide by and follow the Catholic Ethical and Religious Directives as well as the directives of Bishop Larry Silva.

The contributions of the Sisters of St. Francis to this state are vast. From hospital development, dialysis and transplant services to home care, hospice and palliative care, St. Francis and its many community partners and supporters have shaped the landscape of healthcare in Hawaii. Always with compassion and concern for the underprivileged, St. Francis has treated those in their care as "whole" people, keeping in mind their physical, emotional and spiritual needs.

St. Francis Properties

The St. Francis Healthcare System of Hawaii does not presently own or operate any emergency service providers or hospitals. As a part of the sale of St.

282402.1

Francis' West Oahu Medical Center real property assets to The Queen's Medical Center, Queen's Medical has contractually agreed with St. Francis to operate its West Oahu hospital and medical facilities in the spirit of a Catholic Health Care facility and pursuant to the moral, ethical and social teachings of the Roman Catholic Church. This contractual undertaking by Queen's Medical was an essential condition to St. Francis' agreement to sell to Queen's Medical, as it will ensure the continuance of the precepts that are at the very core of St. Francis' ministry in Hawaii. St. Francis would not have sold the West Oahu Medical Center to Queen's Medical without this legal obligation upon Queen's Medical. Among the most important of the Ethical and Religious Directives for Catholic Health Care Services that Queen's Medical has agreed to observe is the respect for life from the time of conception to natural death.

Emergency Contraception

In accordance with our understanding of the definition of life, life begins at conception. Medications used as emergency contraception can interfere with the implantation of a newly conceived human life. There is currently no reliable pregnancy test that will detect this stage of pregnancy, therefore, women who choose to take this medication risk aborting their pregnancy.

St. Francis recognizes that emergency contraceptives may be legal, but for reasons stated here, believes they should not be legal, because they potentially take the life of a human being, which the State has a compelling interest to protect. And even if they are legal, therefore, a conscience exemption should be assured to protect our First Amendment rights to the free exercise of religion. We are always willing to provide medically and factually accurate information and, if needed, transportation for rape victims to an emergency care setting of their choice. In fact, most emergency contraceptive medications are available over the counter at community pharmacies.

While recognizing the vulnerability of the patient, we simply ask that hospitals not be **mandated** to provide specific medications, especially if providing it is a direct violation of a hospital's ethical directives.

Religious Freedom

The St. Francis Healthcare System is confident that this committee can appreciate that religious freedom is what is at stake here and that there must be a way that the needs of patients and providers can be met. Standardizing the information given and ensuring access to care are issues we can support. **We hereby respectfully request that you not ask us to violate a core ethical directive and compromise our agreement with the Diocese of Honolulu and the Roman Catholic Church.**

The St. Francis Healthcare System appreciates the opportunity to share our thoughts and thanks you for your dedication to improving health care in Hawaii. Please do not pass this bill without inclusion of a religious exemption.

Respectfully,

St. Francis Healthcare System of Hawaii

282402.1



HAWAII CATHOLIC CONFERENCE

6301 Pali Highway
Kaneohe, HI 96744-5224

Online Submittal

Hearing on: March 11, 2011 @ 3:00 p.m.
Conference Room # 229

DATE: March 9, 2013
TO: Senate Committee on Health
Sen. Josh Green, Chair
Sen. Rosalyn Baker, Vice Chair
From: Walter Yoshimitsu, Executive Director
Re: Strong Opposition to HB 411 HD 2 Hospital Emergency Compassionate Care for Sexual Assault Victims

Mahalo for the opportunity to testify. I am Walter Yoshimitsu, representing the Hawaii Catholic Conference. The Hawaii Catholic Conference is the public policy voice for the Roman Catholic Church in the State of Hawaii under the leadership of Bishop Larry Silva.

Because of its religious tenets, any Catholic institution in Hawaii, will not provide or pay for abortion services, which we believe includes the use of “emergency contraception.” The teaching of the Catholic Church that human life begins at conception is based on science, which recognizes the zygote as a unique combination of the DNA of both the human mother and the human father with an identity separate from either, though dependent on the mother for nurturing to full maturity. Therefore the use of the “ec” pill, which may prevent implantation of an already fertilized egg, could, in fact, cause an abortion.

While compassionate care of a rape victim is a major concern, the possibility of conception of new human life also establishes a fundamental right for this new human being. Taking the life of this hidden but very real person adds another act of violence to the violent act of rape.

While it is true that the former St. Francis Hospital Ewa is now owned by Queen’s Medical Center, there are two crucial legal items that merit your attention.

GOVERNMENT COMPULSION TO VIOLATE RELIGIOUS BELIEFS

First, the legal relationship between Queens and St. Francis is governed by a contract binding them to operate the hospitals in a manner consistent with Catholic ethical and religious directives. Those directives prohibit complicity in the termination of life, beginning at the moment of conception. Emergency contraceptives sometimes work post-fertilization, resulting in the termination of the new young life and thereby ending the pregnancy. This violates a core religious directive.

Passage of this measure would use government force to compel Queens to provide ‘emergency contraceptives’ which the Catholic Church believes can act as abortifacients – something that would be directly contrary to our religious belief in the sanctity of human life. We have explained this in our opening statement above.

PAGE TWO

That directive, in its entirety reads (emphasis added):

Compassionate and understanding care should be given to a person who is the victim of sexual assault. Health care providers should cooperate with law enforcement officials and offer the person psychological and spiritual support as well as accurate medical information. A female who has been raped should be able to defend herself against a potential conception from the sexual assault. If, after appropriate testing, there is no evidence that conception has occurred already, she may be treated with medications that would prevent ovulation, sperm capacitation, or fertilization. **It is not permissible, however, to initiate or to recommend treatments that have as their purpose or direct effect the removal, destruction, or interference with the implantation of a fertilized ovum.**¹⁹ (Directive 36)

¹⁹ *It is recommended that a sexually assaulted woman be advised of the ethical restrictions that prevent Catholic hospitals from using abortifacient procedures; cf. Pennsylvania Catholic Conference, "Guidelines for Catholic Hospitals Treating Victims of Sexual Assault," Origins 22 (1993): 810.*

SCOPE OF SERVICES UP TO HOSPITAL

Finally, we also believe strongly that the "scope of services" provided by any licensed health care institution is the prerogative of that organization's administration and its medical staff. It is that institution's right as a business and a health care provider to determine which services should be made available via its programs and facilities. It is that organization's administration and medical staff that adopts medical protocols for services to be rendered without government interference.

FIRST AMENDMENT RIGHTS

We respectfully and strongly request that a conscience provision be added to this bill that will include both institutions guided by religious principles and individuals who have strong moral objections. This extremely fair compromise will allow you to move this important legislation forward that will provide compassionate care of victims AND promote religious freedom in Hawaii by not denying rights that are enshrined in the First Amendment of the Constitution of the United States!

Mahalo for your kind consideration.

Testimony on HB411 – Compassionate Care

I am a man who is also a member of the Women's Caucus of the Democratic Party of Hawai'i. I joined, as have other men, because I am concerned about the women in my life, and about their health and well-being.

I necessarily approach the issues from a man's point of view, and I ask the male members of this panel– not to put yourself in a woman's shoes, but in your own. Imagine being called to the hospital in the middle of the night, and finding a terrified, bleeding, traumatized woman – a rape victim. Now, imagine that this woman is someone important in your own life. Imagine she is your sister, your mother, your daughter, or your wife. I would be absolutely outraged, first at the thug who perpetrated this brutal crime, and again if the hospital did not offer her emergency contraception. Because the rape is still going on - she is not pregnant yet, but may become pregnant by her attacker. To withhold the medicine that can prevent this is to aid and abet his crime.

Opponents of EC will trot out dogmas that are held by some, but not all, religions. They may even bring experts who will use technical-sounding terms to confuse the issue. But in reality they are asking us to destroy, not uphold, a person's rights. A ovum is a microscopic entity without a mind or nervous system. It has neither thoughts, nor feelings, nor hopes, nor dreams. There is absolutely no basis in science, or medicine, or even simple reason, to give it the rights of a person. If it fails to be fertilized or implanted, no person is harmed.

However, if pregnancy starts, a person's life really is endangered. Pregnancy and childbirth are dangerous in a way I will never have to face. There are countless examples throughout history - princess [Kalanipauahi](#), auntie of Bernice Pauahi Bishop, died in childbirth.

While modern science and medicine have made pregnancy and childbirth less dangerous, women can, and do, still die. Even now, in the 21st century, in the United States, about one in 4,000 pregnancies result in the death of the woman.¹ ²So, denying a rape victim

EC may well also be aiding and abetting not just her rape, but her rape and murder. It defies the principles of medicine and common sense to withhold EC. EC should be the required standard of care in all hospitals – a woman may refuse it, as she may refuse blood transfusions or any medical treatment, but that should be her decision.

So I ask you to really consider how you would want a woman you care about to be treated. I want her to be given all of medical information, informed of all of the treatment options, including emergency contraception. She didn't choose to be raped – she may yet avoid becoming pregnant by her rapist. Let her decide for herself if she wants to take that risk. The Compassionate Care bill needs to pass for the sake of the women we love and care about.

Aloha and Mahalo,

Michael J DeWeert

Kailua, Hawai'i

¹ CIA World Factbook. Statistics are for the year 2009.

² See also http://en.wikipedia.org/wiki/Maternal_death

To: Committee on Health, Senator Josh Green, Chair, and
Senator Rosalyn H. Baker, Vice-Chair

Date: Monday, March 11, 2013, State Capitol Conference Room
229, 3:00 p.m.

Re: HB411, HD2 Relating to Hospital Emergency Compassionate
Care for Sexual Assault Victims

Chair Green, Vice Chair Baker and Committee Members:

Thank you for the opportunity to submit testimony in STRONG
SUPPORT of HB411, HD2 Relating to Hospital Emergency
Compassionate Care for Sexual Assault Victims. My name is
Barbara J. Service and I live in Senate District 8 and RD 19. I am
a retired Child Welfare supervisor.

Sexual assault victims ARE victims and it is only fair and just
that they be provided with all possible means of support. This
includes access to accurate and unbiased information about
and access to emergency contraception.

I urge you to support victims of sexual assault by voting yes on
HB411, HB2.

Barbara J. Service

Kahala

February 2, 2013

Rep. Della Au Belatti, Chair, Committee on Health

Rep. Dee Morikawa

Rep. Rida Cabanilla

Rep. Mele Carroll

Rep. Jo Jordan

Rep. Bertrand Kobayashi

Rep. Justin Woodson

Rep. Lauren Cheape

House of Representatives

Hawaii State Legislature

Honolulu, Hawaii

Dear Representatives:

I take this opportunity to submit testimony as an individual citizen in opposition to HB411 related to compassionate care for sexual assault victims. I have been licensed as a physician in the State of Hawaii since 1979. In addition, I am a member in good standing of the American Congress of Obstetricians and Gynecologists (ACOG). The opinions that I express do not represent the views of the John A. Burns School of Medicine of which I am a faculty member.

HB411 states, “**Emergency contraception is not an abortion pill, nor does it cause any abortive process to take place.**” My objection to this statement and therefore HB411 revolves around the use and understanding of the words “abortion” and “abortive process”. Some in the medical field (notably ACOG) define pregnancy or the beginning of human life as occurring at the time of implantation of the fertilized egg. Their logic then follows that since EC reportedly does not affect a fertilized egg after implantation it does not cause an abortion and is not involved in the abortive process. However, many others define pregnancy as occurring at the time of conception or fertilization of the egg,

well **before** implantation. In fact, according to an article in the well-respected, peer reviewed American Journal of Obstetrics and Gynecology (Chung et al, Feb 2012), in a survey involving 1154 physicians, *“One-half of US obstetrician-gynecologists (57%) believe pregnancy begins at conception. Fewer (28%) believe it begins at implantation, and 16% are not sure.”* So those who believe that pregnancy and human life begin at conception likewise believe that EC does in fact cause an abortion or is involved in an abortive process when it affects a fertilized egg before implantation.

I sincerely care for the victims of sexual assault. I have in the past provided what I believe was compassionate medical services to clients of the Sex Assault Treatment Center (SATC). Once informed of all possible mechanisms of EC (how and when it works), sexual assault victims that so desire EC may obtain it through a variety of readily available sources. It is not necessary to require hospitals or physicians to provide or dispense EC if this action violates their conscience.

William L.T. Fong, MD
1122 Clio Street
Honolulu, Hawaii 96822
wfongmdinc@yahoo.com
808-537-6664

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: pouloskm@hawaii.edu
Subject: Submitted testimony for HB411 on Mar 11, 2013 15:00PM
Date: Sunday, March 10, 2013 2:43:19 PM

HB411

Submitted on: 3/10/2013

Testimony for HTH on Mar 11, 2013 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Kina Poulos	Individual	Oppose	No

Comments: Rape is tramatic and horrible, but it is also horrible to force hospitals to offer contraceptives without religious exemptions for hospitals or individuals.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: jbsestak@prodigy.net
Subject: Submitted testimony for HB411 on Mar 11, 2013 15:00PM
Date: Sunday, March 10, 2013 1:35:31 PM

HB411

Submitted on: 3/10/2013

Testimony for HTH on Mar 11, 2013 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Betty Sestak	AAUW-Windward	Support	No

Comments: no more attachments. Meets standard of care as is.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: Patriciablair@msn.com
Subject: Submitted testimony for HB411 on Mar 11, 2013 15:00PM
Date: Friday, March 08, 2013 8:19:33 PM

HB411

Submitted on: 3/8/2013

Testimony for HTH on Mar 11, 2013 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Patricia Blair	Individual	Support	No

Comments: The victims deserve to have this bill passed without delay.

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From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: risedoi@gmail.com
Subject: Submitted testimony for HB411 on Mar 11, 2013 15:00PM
Date: Saturday, March 09, 2013 10:02:31 AM

HB411

Submitted on: 3/9/2013

Testimony for HTH on Mar 11, 2013 15:00PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Rise Doi	Individual	Support	No

Comments: Please pass this bill. I respect the freedom of religion, but I don't think that sending away a rape victim to another hospital for emergency contraception after all the trauma she has already experienced is the right thing to do. Rape victims should at least have the option of taking emergency contraception. If a doctor or nurse has a religious conflict and doesn't feel comfortable administering emergency contraception to a rape victim, then he/she should find another medical professional in the same hospital who will. Thank you.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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Testimony in Support: HB411

To: Chair Josh Green, Vice Chair Rosalyn Baker, and Members of the Senate Committee on Health
From: Sarah Miller, J.D. Candidate Class of 2015, William S. Richardson School of Law
Re: Testimony in Support of HB411 Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims.

I strongly support HB411, which ensures compassionate care for sexual assault survivors in Hawaii by requiring that emergency departments throughout the state offer information about Emergency Contraception (EC) and dispense the medication when it is needed and the survivor requests it.

When a woman is sexually assaulted, she should be able to prevent pregnancy as the result of rape. EC prevents pregnancy and the best, compassionate care that survivors deserve. According to the Hawaii Attorney General's Report Crime in Hawaii, in 2011 there were 353 reported forcible rapes in Hawaii. Major studies show that reporting rates for rape and sexual assault are approximately 40%.¹ Still some studies have shown that rate to be as low as 16%.² Therefore, the rate of sexual assault in Hawaii is likely much higher. Survivors find themselves dealing with a host of reproductive and sexual health issues, including pregnancy. Statistics vary, but indicate the approximately 5-8% of all rapes result in pregnancy.

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.³ The American College of Obstetrics and Gynecology also supports this standard of care.⁴ Disturbingly, some hospitals in Hawaii do not offer victims Emergency Contraception, or even provide information about it, leaving some victims at risk for pregnancy resulting from rape.

Hawaii's most vulnerable patients deserve access to quality, compassionate care after a sexual assault, no matter which emergency room they arrive in. Therefore I urge the Committee to pass HB411. Thank you.

Sincerely,
Sarah Miller

¹ <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2011/crime-in-the-u.s.-2011/tables/table-5>

² National Center for Victims of Crime & Crime Victims Research and Treatment Center, Rape in American: A Report to the Nation, (1992).

³ See, American Medical Association, Strategies for the Treatment and Prevention of Sexual Assault (1995).

⁴ 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.

COMMUNITY ALLIANCE ON PRISONS

76 North King Street, Honolulu, HI 96817

Phones/E-Mail: (808) 533-3454, (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON HEALTH

Sen. Josh Green, Chair

Sen. Rosalyn Baker, Vice Chair

Monday, March 11, 2013

3:00 p.m.

Room 229

SUPPORT FOR HB 411 HD2 - Compassionate Care for Sexual Assault Victims

Aloha Chair Green, Vice Chair Baker and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies for more than a decade. This testimony is respectfully offered on behalf of the 5,800 Hawai'i individuals living behind bars, always mindful that approximately 1,500 individuals are serving their sentences abroad, thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Native Hawaiians, far from their ancestral lands.

I have also been the Chair of the Honolulu County Committee on the Status of Women for eleven years, although I am not speaking on the City's behalf.

HB 411 SD2 e establishes a new part in chapter 321, Hawaii Revised Statutes, to ensure that female sexual assault victims are provided with medically and factually accurate and unbiased information about and access to emergency contraception when receiving emergency medical care at Hawaii's hospitals. (HB411 HD2)

Community Alliance on Prisons is in strong support of this measure. Sexual assault is a life threatening event and one that causes most victims long-term trauma. Survivors often experience depression, intense fear, anxiety, and symptoms of post-traumatic stress disorder. Healing may take a lifetime. Many of our incarcerated women have been through the traumatic experience of rape, which has led many of them to use drugs to self-medicate and, sadly that path has led them to prison.

According to the U.S. Department of Justice, Criminal Justice Division information, there were 228 forcible rapes in Hawai'i in 2011.¹ Many survivors of rape require immediate medical attention at one of Hawaii's emergency rooms.

¹ FBI, 2011. "Crime in the United States." Accessed from <http://www.fbi.gov/about-us/cjis/ucr/crime-in-the-us/2011/crime-in-the-u.s.-2011/tables/table-1> on December 2, 2012.

It is unconscionable to us that women would be denied information and access to emergency contraception in the Aloha State after going through the worst trauma imaginable.

In addition to the aftermath of rape, victims find themselves dealing with a host of reproductive and sexual health issues, including pregnancy. Statistics vary, but indicate that approximately 5% - 8% of all rapes result in pregnancy.²

In 2012, sixteen states and the District of Columbia have adopted legislation requiring the provision of information about and/or access to EC to sexual assault victims in emergency rooms.³ The federal government also has standardized rules regarding EC and requires that all military and federal hospitals stock EC.⁴ The Army Medical Command Regulations advise discussing and providing EC to sexual assault victims.⁵

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.⁶ The American College of Obstetrics and Gynecology also supports this standard of care.⁷

I remember the terror in my sister's voice when she called to tell me she had been raped. She was 19 years old. And this rape was preceded by sexual molestation by a Catholic priest, a 'friend' of my family, in my mother's own home. These traumatic and violent assaults have impacted her life until this very day and she is now almost 60 years old.

Please pass this compassionate care bill. No one should be denied access and information to medical care in the Aloha State.

Mahalo for this opportunity to testify.

² Psychology Today, 2012. "Why Are Rape Victims More--Not Less--Likely to Become Pregnant?" Accessed from <http://www.psychologytoday.com/blog/animals-and-us/201208/why-are-rape-victims-more-not-less-likely-become-pregnant> on December 2, 2012.

³ National Conference of State Legislatures, 2012. "Emergency Contraception State Laws." Accessed from <http://www.ncsl.org/issuesresearch/health/emergency-contraception-state-laws.aspx> on December 2, 2012.

⁴ Department of Defense, Pharmacy and Therapeutics Committee Recommendations, November 2009, Signed February 2010.

⁵ Army Medical Command Regulation, 40-36, Part 17, January 2009.

⁶ American Medical Association, Strategies for the Treatment and Prevention of Sexual Assault (1995).

⁷ American College of Obstetricians and Gynecologists, 2004. "Violence Against Women: Acute Care of Sexual Assault Victims." at

http://www.acog.org/Resources_And_Publications/Committee_Opinions/Committee_on_Health_Care_for_Underserved_Women/Sexual_Assault