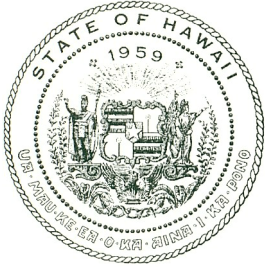


HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

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LISA ELLEN SMITH  
CAROL ANNE PHILIPS

Executive Director  
Catherine Betts, Esq.

Email:  
DHS.HSCSW@hawaii.gov  
Visit us at:  
humanservices.hawaii.gov  
/hscsw/

235 S. Beretania #407  
Honolulu, HI 96813  
Phone: 808-586-5758  
FAX: 808-586-5756

February 21, 2013



**Testimony in Support of SB 1109, Relating to Hospital Standards for Sexual Assault Victims**

**To:** Senator David Y. Ige, Chair  
Senator Michelle N. Kidani, Vice-Chair  
Senate Committee on Ways and Means

**From:** Cathy Betts, Executive Director, Hawai'i State Commission on the Status of Women

**Re:** Testimony in Support of SB 1109

On behalf of the Hawai'i State Commission on the Status of Women, I would like to thank the committee for this opportunity to provide testimony on such a vitally important issue. I would like to express my strong support for SB 1109, 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. Rape occurs in Hawai'i every day, yet many victims do not come forward for any type of help and most sexual assaults go unreported.

Despite the rate at which our residents are victimized, Hawaii has no legalized standard of care to treat victims with respect to emergency contraception. 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.<sup>1 2</sup> Additionally, the Centers for Disease Control's treatment guidelines provide for offering emergency contraceptives to sexual assault survivors.<sup>3</sup> Emergency contraception is a safe and effective FDA approved method to prevent pregnancy as the result of a rape. It is not an abortion pill, nor will it terminate an existing pregnancy. It is imperative that all emergency rooms inform victims about emergency contraception and have it readily available should a victim make an informed decision to use it.

It is important to note that there is minimal cost associated with this bill. Additionally, the Department of Human Services has agreed to pay for the medication. Finally, the Commission requests that this Committee consider the amendments as provided in HB 411, HD 1. Thank you for your time.

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

<sup>2</sup> 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](http://www.acog.org/Resources_And_Publications/Committee_Opinions/Committee_on_Health_Care_for_Underserved_Women/Sexual_Assault).

<sup>3</sup> Centers for Disease Control, Treatment Guidelines 2010, Sexual Assault and STDs, at: <http://www.cdc.gov/std/treatment/2010/sexual-assault.htm>.





February 20, 2013

**Testimony in Support: SB 1109 SD1**

**To:** Chair David Ige, Vice Chair Michelle Kidani, and Members of the Senate Committee on Ways and Means

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

**Re:** Testimony in Support of SB 1109 SD 1 Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

Planned Parenthood of Hawaii (PPHI) strongly supports SB 1109, 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.

We also ask that the committee amend the bill to more accurately reflect an amendment suggested by Kaiser Permanente. We ask the committee to strike language added on Page 4, Line 1, and insert the language proposed by Kaiser Permanente Hawaii on Page 4, Line 10. A copy of this proposed amendment is attached to this testimony.

**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.<sup>1</sup> 2011 saw 83,245 reported forcible rapes throughout the country.<sup>2</sup> In Hawaii there were 353 reported forcible rapes.<sup>3</sup> On the island of Oahu, that meant a rate of 21.1 rapes per 100,000 people.<sup>4</sup> 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.<sup>5</sup> These numbers only represent those rapes that were reported to law enforcement. Major studies show that reporting

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<sup>1</sup> *National Intimate Partner and Sexual Violence Survey*, Centers For Disease Control, Nov. 2011, [http://www.cdc.gov/ViolencePrevention/pdf/NISVS\\_Report2010-a.pdf](http://www.cdc.gov/ViolencePrevention/pdf/NISVS_Report2010-a.pdf).

<sup>2</sup> *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>.

<sup>3</sup> *Crime in Hawaii*, Hawaii Attorney General's Office, Nov. 2012, [http://hawaii.gov/ag/cpja/main/rs/crimeinhawaii/CIH2011/Crime\\_in\\_Hawaii\\_2011.pdf](http://hawaii.gov/ag/cpja/main/rs/crimeinhawaii/CIH2011/Crime_in_Hawaii_2011.pdf)

<sup>4</sup> Id.

<sup>5</sup> Id.

**Honolulu Health Center**

1350 S. King Street, Suite 310  
Honolulu, HI 96814  
808-589-1149

**Kailua Kona Health Center**

75-184 Hualalai Road, Suite 205  
Kailua Kona, HI 96740  
808-329-8211

**Kahului (Maui) Health Center**

140 Ho'ohana Street, Suite 303  
Kahului, HI 96732  
808-871-1176  
(A Maui United Way Agency)

rates for rape and sexual assault are approximately 46%.<sup>6</sup> Still some studies have shown that rate to be as low as 16%.<sup>7</sup> Therefore, the rate of sexual assault, both nationally and in Hawaii, is likely much higher.

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 Association<sup>8</sup> and the American College of Obstetrics and Gynecology<sup>9</sup> 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.<sup>10</sup> 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.<sup>11</sup>

### **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.<sup>12</sup> 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.<sup>13</sup> 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.<sup>14</sup> EC is not an "abortion pill." It will not terminate an existing pregnancy.<sup>15</sup>

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

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

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

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

<sup>9</sup> American College of Obstetricians and Gynecologists, *Violence Against Women: Acute Care of Sexual Assault Victims* (2004), at [http://www.acog.org/departments/dept\\_notice.cfm?recno=17&bulletin=1625](http://www.acog.org/departments/dept_notice.cfm?recno=17&bulletin=1625).

<sup>10</sup> Holmes, Melissa and Resnick, Heidi A. and Kirkpatrick, Dean G. and Best, Connie L. *Rape-related Pregnancy: Estimates and Descriptive Characteristics from a National Sample of Women*. *American Journal of Obstetrics and Gynecology*, Vol. 175, 2, pp. 320-325. (1995).

<sup>11</sup> *Id.*

<sup>12</sup> *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>.

<sup>13</sup> *Id.*

<sup>14</sup> *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).

<sup>15</sup> *Emergency Contraception Fact Sheet*

about and provided EC.<sup>16</sup> The American College of Obstetrics and Gynecology has supported this standard of care since 2004.<sup>17</sup>

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.<sup>18</sup> The Federal Government now requires all military and federal hospitals to stock EC.<sup>19</sup> The Army Medical Command Regulations advise discussing and providing EC to sexual assault survivors.<sup>20</sup>

### **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 Victims<sup>21</sup> (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. 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.<sup>22</sup>

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.<sup>23</sup> Survivors who were required to make multiple disclosures, regardless of negative reactions, suffered from more acute PTSD symptoms.<sup>24</sup>

### **Conclusion**

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,

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

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

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

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

<sup>20</sup> See, Army Medical Command Regulation, 40-36, Part 17, January 2009.

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

<sup>22</sup> *National Intimate Partner and Sexual Violence Survey*, 2011.

<sup>23</sup> 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.

<sup>24</sup> *Id.*

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 SB 1109 SD1. Thank you.

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# A BILL FOR AN ACT

RELATING TO HOSPITAL EMERGENCY COMPASSIONATE CARE FOR SEXUAL  
ASSAULT VICTIMS.

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

1           SECTION 1. Rape is the most under-reported violent crime.  
2   In the aftermath of rape, victims find themselves dealing with a  
3   host of reproductive and sexual health issues. The physical and  
4   emotional trauma suffered by victims is compounded by the  
5   possibility of an unwanted pregnancy as a result of the rape.  
6   The average rate of pregnancy resulting from rape is between  
7   five and eight per cent with an estimated thirty-two thousand  
8   rape-related pregnancies occurring every year in the United  
9   States. However, the Department of Justice National Crime  
10  Victimization Surveys indicate that over half of all rapes are  
11  not reported to the police.

12           Emergency contraception is not an abortion pill, nor does  
13  it cause any abortive process to take place. Emergency  
14  contraception is a safe and effective means of preventing  
15  pregnancy after a sexual assault. In fact, the provision of  
16  emergency contraception to victims of sexual assault is the most  
17  widely recognized and accepted standard of care for sexual



1 assault patients. The American Medical Association and the  
2 American College of Obstetricians and Gynecologists have stated  
3 that sexual assault victims should be informed about and  
4 provided emergency contraception. However, a 2010 survey of  
5 emergency facilities in Hawaii revealed a lack of clear policy  
6 on the issue.

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

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

14 **"PART . COMPASSIONATE CARE**

15 **§321-A Definitions.** As used in this part, unless the  
16 context clearly requires otherwise:

17 "Department" means the department of health unless  
18 otherwise specified in this part.

19 "Emergency contraception" means one or more prescription  
20 drugs used separately or in combination that are:

- 21 (1) Used postcoitally within a recommended amount of time;  
22 (2) Used for the purpose of preventing pregnancy; and

1 (3) Approved by the United States Food and Drug  
2 Administration.

3 "Hospital" means any institution with an organized medical  
4 staff, regulated under sections 321-11(10)and 321-14.5, that  
5 admits patients for inpatient care, diagnosis, observation, and  
6 treatment.

7 "Sexual assault" means vaginal penetration without the  
8 person's consent, by compulsion or strong compulsion, or by  
9 sexual intercourse with someone who is mentally incapacitated,  
10 as defined in section 707-700.

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

14 **§321-B Compassionate care.** (a) Any hospital at which a  
15 sexual assault victim presents for emergency services shall:

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

19 (2) Orally inform each female sexual assault victim of the  
20 option to receive emergency contraception at the  
21 hospital; ~~provided that hospital staff members that do~~  
22 ~~not provide emergency medical care shall not provide~~  
23 ~~information about the option to receive emergency~~

- 1 | ~~contraception at the hospital;~~
- 2 | (3) When medically indicated, offer emergency
- 3 | contraception to each female sexual assault victim.
- 4 | (4) Dispense a complete course of emergency contraception
- 5 | to each female sexual assault victim who accepts or
- 6 | requests it; and
- 7 | (5) Ensure that ~~each person at the hospital who may~~
- 8 | ~~provide emergency medical care~~providers who may
- 9 | prescribe or administer emergency contraception shall
- 10 | be trained to provide a sexual assault victim with
- 11 | medically and factually accurate and unbiased written
- 12 | and oral information about emergency contraception and
- 13 | sexual assault treatment options and access to
- 14 | emergency contraception.
- 15 | (b) No hospital shall deny a sexual assault victim
- 16 | emergency contraception based on a refusal to undergo a forensic
- 17 | examination or a refusal to report the alleged sexual assault to
- 18 | law enforcement.
- 19 | (c) No hospital shall be required to provide emergency
- 20 | contraception to a sexual assault victim who has been determined
- 21 | to be pregnant through the administration by the hospital staff
- 22 | of a pregnancy test approved by the United States Food and Drug
- 23 | Administration.

1 (d) If private insurance is not or cannot be utilized for  
2 payment, the cost of any emergency contraception dispensed  
3 pursuant to this part shall be paid by the department of human  
4 services.

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

10 (b) The department shall:

11 (1) Establish policy and procedures to monitor compliance  
12 with this part, including a complaint process;

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

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

20 (c) Any hospital that violates this part or any rule  
21 adopted under this part after receiving written notice and an  
22 opportunity to take corrective action pursuant to subsection

\_\_\_\_.B. NO.\_\_\_\_

1 (b)(3) shall be fined not more than \$1,000 for each separate  
2 offense.

3 (d) All enforcement processes shall comply with section  
4 321-20.

5 (e) Sanctions under this section shall not be issued for  
6 violations occurring before July 1, 2014.

7 **§321-C Rules.** The department may adopt rules under  
8 chapter 91 for the purposes of this part.

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

13 SECTION 4. This Act shall take effect upon approval.

14

15 INTRODUCED BY: \_\_\_\_\_

16

BY REQUEST

17

\_\_\_\_.B. NO.\_\_\_\_

**Report Title:**

Hospital Emergency Compassionate Care; Emergency Contraception

**Description:**

Establish a new part in 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 Hawaii's hospitals for sexual assaults.

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

SENATE COMMITTEE ON WAYS AND MEANS  
Senator David Ige, Chair

February 21, 2013 at 9:00 a.m.  
Conference Room 211

**Supporting SB 1109 SD 1: Relating to Hospital Standards 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, as well as long term care facilities, home care agencies, and hospices. In addition to providing quality care to all of Hawaii's residents, our members contribute significantly to Hawaii's economy by employing over 40,000 people. Thank you for this opportunity to testify in support of SB 1109 SD 1, 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 SB 1109 SD 1.

## Testimony of Phyllis Dendle

Before:  
Senate Committee on Ways and Means  
The Honorable David Y. Ige, Chair  
The Honorable Michelle N. Kidani, Vice Chair

February 21, 2013  
9:00 am  
Conference Room 211

**SB 1109 SD1 RELATING TO HOSPITAL STANDARDS FOR SEXUAL ASSAULT VICTIMS**

Chair Ige and committee members, thank you for this opportunity to provide testimony on SB1109 SD1 regarding providing emergency contraception in hospital emergency medicine departments.

**Kaiser Permanente Hawaii supports this bill and has a suggested amendment.**

The following amendment was agreed to by Senate Health committee but doesn't seem to have made it into this draft.

We ask that the committee consider this amendment.

On Page 4 line 10 it currently says “Ensure that *each person at the hospital who may provide emergency medical care...*” We suggest changing the language in italics to “providers who may prescribe or administer emergency contraception”. There are many people in the emergency department that provide a variety of care such as drawing blood and doing x-rays for whom this discussion would be inappropriate even if they were trained. We think this is clearer and more specifically places the responsibility with the provider. It also assures that training is not required for medical personal that may not administer or prescribe emergency contraception.

The amended section would read:

"Ensure that *providers who may prescribe or administer emergency contraception*



shall be trained to provide a sexual assault survivor with medically and factually accurate and unbiased written and oral information..."

The amendment that was made to the bill on page 4 line 1 actually is unnecessary and will not achieve the purpose of the amendment proposed above. As written, it would bar any other medical provider, other than those who provide emergency medical care from discussing emergency contraception with their patients...under any circumstances. The following language should be removed:

"provided that hospital staff members that do not provide emergency medical care shall not provide information about the option to receive emergency contraception at the hospital;"

Thank you for your consideration.



February 20, 2013

**Testimony in Support: SB1109 SD1**

**To:** Chair David Ige, Vice Chair Michelle Kidani, and Members of the Senate  
Committee on Ways and Means

**From:**

**Re:** Testimony in Support of SB 1109 SD1 Relating to Hospital Emergency  
Compassionate Care for Sexual Assault Victims.

I strongly support SB 1109 SD1, 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.

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.<sup>i</sup> The American College of Obstetrics and Gynecology also supports this standard of care.<sup>ii</sup> 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 we urge the Committee to pass SB 1109 SD1. Thank you.

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

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



February 20, 2013

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