

SB1109

LATE

TESTIMONY

February 5, 2013

Senators Josh Green and Rosalyn H. Baker
Chair and Vice Chair Committee on Health
and
Senators Clayton Hee and Maile S.L. Shimabukuro
Chair and Vice Chair Committee on Judiciary and Labor

BOARD DIRECTORS

RE: Opposition/Comments on SB 1109
Health Comm. Hearing Wednesday, 2/6/13, 1:15 Rm. 229

James Hochberg, Esq.
President
Director

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. I was present today at your joint hearing where SB 1109 was on the hearing agenda. The long time spent by your committees on the obesity tax issue caused me to have to return to my office to attend to something that could not wait. I would like to submit this to you as I planned to present it orally. I missed the hearing notice and had not presented testimony in writing.

Shawn Luiz, Esq.
Vice President
Director

I am testifying in opposition to SB 1109 because it seeks to trample on the rights of conscience of people who, on the basis of religious belief as to when life begins, believe they cannot comply with the requirements of SB 1109.

Sandra Young, Esq.
Secretary
Director

This morning, William L. T. Fong MD (OBGYN, member in good standing of ACOG, faculty of John A. Burns School of Medicine and physician since 1979) submitted the attached testimony on HB 411, a similar bill in the House Health Committee. He testifies that:

Alex Meimer
Treasurer
Director

“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.”

Mary Lou Brogan
Director

For those, like Dr. Fong, whose religious belief includes that human life begins at fertilization, their religious beliefs must be permitted to shield them from having to provide emergency contraception to sexual assault victims.

In addition, SB 1109 requires 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 Dr. William Fong’s testimony cited above, SB 1109



itself is a biased presentation of the medical and factual information concerning what emergency contraceptives do with respect to ending a life.

As stated by the 6th Circuit Court of Appeals in its opinion January 27, 2012, in the Ward vs. Polite case, "Tolerance is a two-way street. Otherwise, the rule mandates orthodoxy, not anti-discrimination."

This statement squarely applies to SB 1109. Without a religious exemption, SB 1109 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 SB 1109 without a clear religious exemption.

Sincerely,

James Hochberg, Esq.
President, Hawaii Family Advocates