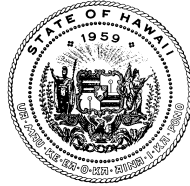


SB 526



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

In reply, please refer to:
File:

Senate Committee on Health

SB 0526, 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**

Monday, January 28, 2013

1 **Department's Position:** Supports but prefers the Administration Bill SB1109, RELATING TO
2 HOSPITAL STANDARDS FOR SEXUAL ASSAULT VICTIMS.

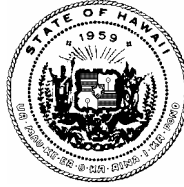
3 **Fiscal Implications:** None or minimal to the department of health.

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 SB1109, 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

January 28, 2013

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

FROM: Patricia McManaman, Director

SUBJECT: **S.B. 526 – RELATING TO HOSPITAL EMERGENCY COMPASSIONATE
CARE FOR SEXUAL ASSAULT VICTIMS**

Hearing: Monday, January 28, 2013; 1:15 p.m.
Conference Room 229, State Capitol

PURPOSE: The purpose of S.B. 526 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) fully supports the purpose of 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.

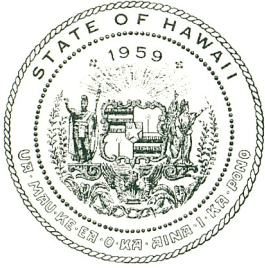
Emergency contraception is not an abortion pill, nor does it cause any abortive process to take place. Emergency contraception is a safe and effective means of preventing pregnancy after a sexual assault. In fact, the provision of emergency contraception to victims of sexual assault is the most widely 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 DHS fully supports the purpose of this bill and requests that the Legislature consider Administration bill, S.B. 1109, to effectuate the purpose of this bill. S.B. 526 and S.B. 1109 have almost the identical language. S.B. 1109, however, includes several clarifications from discussions between the Department of Health and the Department of Human Services.

Thank you for the opportunity to testify on this measure.

HAWAII
STATE
COMMISSION
ON THE
STATUS
OF
WOMEN



Chair
LESLIE WILKINS

COMMISSIONERS:

ELENA CABATU
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January 28, 2013

Testimony in Support of SB 526, Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

To: Senator Josh Green, M.D., Chair
Senator Rozalyn 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 SB 526

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 526, 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. Many victims never seek emergency care, counseling or assistance through the criminal justice system.

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 Congress of Obstetricians and Gynecologists have supported and endorsed a standard policy that victims be informed about and provided emergency contraception.^{i ii} Additionally, the Centers for Disease Control's treatment guidelines provide for offering emergency contraceptives to sexual assault survivors.ⁱⁱⁱ 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.

Provision of emergency contraceptives to sexual assault survivors is the accepted standard of care throughout the nation. Despite these policies, Hawai'i remains a state without a standard policy or law. This lack of a standardized and consistent policy is troubling. 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. A victim of rape should not have to seek further medical care on her own because of an institution's denial of basic care.

The Commission urges the Committee to pass SB 526. Thank you.

ⁱ See American Medical Association, Strategies for the Treatment and Prevention of Sexual Assault

ⁱⁱ 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.

ⁱⁱⁱ Centers for Disease Control, Treatment Guidelines 2010, Sexual Assault and STDs, at:

<http://www.cdc.gov/std/treatment/2010/sexual-assault.htm>.

DEPARTMENT OF THE PROSECUTING ATTORNEY
CITY AND COUNTY OF HONOLULU

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KEITH M. KANESHIRO
PROSECUTING ATTORNEY

ARMINA A. CHING
FIRST DEPUTY PROSECUTING ATTORNEY



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

January 28, 2013

**RE: S.B. 526; 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 submits the following testimony in support of S.B. 526.

The purpose of S.B. 526 is to require that hospitals:

- “(1) Provide any female sexual assault survivor with medically and factually accurate and unbiased written and oral information about emergency contraception;
- (2) Orally inform each female sexual assault survivor of the option to receive emergency contraception at the hospital;
- (3) When medically indicated, provide emergency contraception to each female sexual assault survivor who requests it, including the initial dose that can be taken at the hospital, and any further dosage as necessary; and
- (4) Ensure that each person at the hospital who may provide emergency medical care shall be trained to provide a sexual assault survivor with medically and factually accurate and unbiased written and oral information about emergency contraception and sexual assault treatment options and access to emergency contraception.”

The requirements in this bill are reasonably related to addressing the acute medical, psychological, and emotional needs of sexual assault survivors. Furthermore, the provisions of

this measure 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.

Sexual assault is one of the most traumatic crimes that target Hawaii'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.

We understand that concerns have been raised in the past two legislative sessions regarding 45 C.F.R. §88.1 - §88.4, which were codified to implement and enforce a collection of laws known as the Federal Healthcare Conscience Protection Statutes. Under these statutes, State and local governments that receive federal financial assistance shall not subject any institutional or individual health care entity to discrimination for refusing:

- (1) To undergo training in the performance of abortions, or to require, provide, refer for, or make arrangements for training in the performance of abortions;
- (2) To perform, refer for, or make other arrangements for, abortions; or
- (3) To refer for abortions;

Also, State and local governments that receive a federal grant, contract, loan, or loan guarantee under the Public Health Service Act, the Community Mental Health Centers Act, or the Developmental Disabilities Assistance and Bill of Rights Act of 2000, shall not require:

- (1) Such individual to perform or assist in the performance of any sterilization procedure or abortion if his performance or assistance in the performance of such procedure or abortion would be contrary to his religious beliefs or moral convictions, or
- (2) Such entity to:
 - (i) Make its facilities available for the performance of any sterilization procedure or abortion if the performance of such procedure or abortion in such facilities is prohibited by the entity on the basis of religious beliefs or moral convictions, or
 - (ii) provide any personnel for the performance or assistance in the performance of any sterilization procedure or abortion if the performance or assistance in the performance of such procedure or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

Under the plain language reading of 45 C.F.R. §88.1 - §88.4, there is no prohibition to prevent health care entities from providing medically accurate information about emergency contraception, nor from providing emergency contraception to female sexual assault survivors who request it. By definition, “emergency contraception” is limited to prescription drugs used for the purpose of preventing pregnancy, rather than terminating an existing pregnancy (i.e. abortion).

Further, sixteen (16) other states currently have statutes similar to S.B. 526, requiring that hospitals treating sexual assault survivors provide medically accurate information regarding emergency contraception. Twelve (12) states also have statutes that require hospitals to provide emergency contraception to sexual assault survivors, upon request. A number of these statutes were enacted as early as 2002, and to date, none have been struck down nor found invalid in a court of law.

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 permitted to insure their ability to transition from victim to survivor. Since 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 S.B. 526 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 cited above, the Department of the Prosecuting Attorney of the City and County of Honolulu strongly support S.B. 526. 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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Dennis Dunn
Councilmember
Carol Fukunaga
David I. Haverly
Linda Jameson
Michael P. Matsumoto
Phyllis Muraoka
Gidget Ruscetta

DATE: January 27, 2013

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

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

RE: S.B. 526
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 S.B. 526 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 S.B. 526. 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).

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: jbsestak@prodigy.net
Subject: Submitted testimony for SB526 on Jan 28, 2013 13:15PM
Date: Friday, January 25, 2013 1:55:00 PM

SB526

Submitted on: 1/25/2013

Testimony for HTH on Jan 28, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Betty Sestak	Hawaii Rehabilitation Counseling Association	Support	No

Comments: Strong support. 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. The American College of Obstetrics and Gynecology also supports this standard of care. 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.

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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**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



January 28, 2013-Monday

1:15 PM

Conference Room 229

State Capitol

**To: Senator Josh Green, Chair
Senator Rosalyn H. Baker, Vice Chair
Senate Committee on Health
Senator Clayton Hee, Chair
Senator Maile Shimabukuro, Vice Chair
Senate Committee on Judiciary and Labor**

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

Re: SB 526, Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

Position: Strongly Support

Dear Chairs Green and Hee, Vice Chairs Baker and Shimabukuro, and Committee on Health, and Judiciary and Labor Committee Members:

The American Congress of Obstetricians and Gynecologists (ACOG), Hawaii Section, strongly supports SB 526, which ensures the provision of pregnancy prevention information and emergency contraception to victims of sexual assault in a timely manner.

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 Committee Opinion #499 Sexual Assault, August 2011)

ACOG, Hawaii Section strongly supports the discussion of possible pregnancy resulting from sexual assault with all victims, and the provision of emergency contraception. Emergency contraception should be available in 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.

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

Thank you for the opportunity to provide this testimony.

**GAY LESBIAN
BISEXUAL AND
TRANSGENDER
CAUCUS**



**DEMOCRATIC
PARTY OF
HAWAII**

January 26, 2013

Testimony in Support: SB 526

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

From: Jo-Ann M. Adams, Legislative Liaison
Gay Lesbian Bisexual and Transgender Caucus
Democratic Party of Hawai'i

Re: Hospital Emergency Compassionate Care for Sexual Assault Victims.

The Gay Lesbian Bisexual and Transgender Caucus strongly supports SB 526, 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.

Who pays? Most health insurance covers EC. If health insurance does not cover EC, the State of Hawaii will cover the cost. Please note that the Governor, the Department of Health and the Department of Human Services are aware of this and support this measure.

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. Some hospitals left the decision up to the treating physician, some provided a written prescription only, some did not keep EC in stock, and some never provided EC, claiming religious exemptions. (Note: Institutions that serve the public do not have the right to deny basic health care. Medical professionals with religious objections should be required to find another staff person on site to assist a victim rather than deny the victim information and treatment.)

EC prevents pregnancy. EC are high dose contraceptives that, when taken 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.

Sexual assault victims deserve access to complete, compassionate care after a sexual assault, wherever they present themselves for treatment. We urge the Committee to pass SB 526.

Thank you for your consideration.



THE LEAGUE OF WOMEN VOTERS OF HAWAII

28 January 2013

Testimony in **support** of SB 526

Monday January 28, 2013

Conference Room 229

State Capitol

COMMITTEE ON HEALTH

Senator Josh Green, Chair

Senator Rosalyn H. Baker, Vice Chair

The League of Women Voters of Hawaii stand in strong support of SB526 which requires all hospitals to provide female survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception (EC)

It is the Leagues position to support the basic level of quality care for all Hawaii residents and controls health care costs.

This is minimally a best medical practice, not only endorsed by the AMA (American Medical Association) as well as the ACOG (American College of Obstetricians and Gynecologists) and the League. This compassionate care can protect the woman from an unintended pregnancy which raise psychological and emotional costs as well as a life time cost to the survivor and family.

Again, we stand in support of this bill

Thank you for the opportunity to testify

Joy A Marshall, RN, Chair

Committee on Women's Health and Health Care Reform

January 25, 2013

Testimony in Support: SB 526

To: Chair Josh Green, Vice Chair Rosalyn 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 SB 526 Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims

Planned Parenthood of Hawaii (PPHI) strongly supports SB 526, 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.

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.

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

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](http://hawaii.gov/ag/cpja/main/rs/crimeinhawaii/CIH2011/Crime%20in%20Hawaii%202011.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).

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

Honolulu Health Center

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(A Maui United Way Agency)

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.

According to medical authorities, such as the American College of Obstetrics and Gynecology and the National Institutes on Health, a pregnancy occurs when a fertilized egg implants itself on the uterine lining. 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

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

Sexual Assault Victims in Hawaii May Not Receive Emergency Contraception.

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.

Hospitals that Deny EC Harm Survivors and Disproportionately Harms Young Victims

When asked to seek EC somewhere else, survivors are put at risk for unwanted pregnancy and further trauma. 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.

Denying survivors EC 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.²² Survivors who were required to make multiple disclosures, regardless of negative reactions, suffered from more acute PTSD symptoms.²³

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 18.²⁴

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, 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 526. Thank you.

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 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.

²³ Id.

²⁴ *National Intimate Partner and Sexual Violence Survey*, 2011.



TO: Senator Josh Green, Chair
Senate Committee on Health

FROM: Kristine Yoo
Director, Hawaii Women Lawyers

RE: S.B. 526: Relating to Hospital Emergency Compassionate
Care for Sexual Assault Victims
Hearing Date: January 28, 2013, 1: 15, Room 229

Hawaii Women Lawyers, founded in 1978, is a membership organization dedicated to improving the lives and careers of women in all aspects of the legal profession, to influence the future of the legal profession, and to enhance the status of women and promote equal opportunities for all people. Our members are both men and women who have worked in all aspects of the law. Our board includes partners and associates of Hawai'i law firms, in-house counsel, legal service attorneys and law students.

Hawaii Women Lawyers submits this testimony in **strong support** of S.B. 526, which ensures 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.

When a woman is sexually assaulted, the resulting physical and emotional trauma is significant and, in addition to a host of sexual health issues, can include the possibility of pregnancy. Statistics vary, but indicate that approximately 5-8% of all rapes result in pregnancy. In Hawaii, some hospitals do not currently offer sexual assault survivors emergency contraception, or provide information about it after a woman is sexually assaulted. This leaves some victims at risk for pregnancy resulting from rape.

Providing emergency contraception in the ER is an accepted standard of care by the American Medical Association and American College of Obstetrics and Gynecology. At least 16 states have already taken the lead on this important issue, and have passed laws that require hospitals to provide information and access to emergency contraception in emergency rooms.

S.B. 526 follows this standard of care, by requiring that survivors are provided information about and access to emergency contraception while being treated for the trauma of a sexual assault. We believe making emergency contraception available in

emergency rooms is the best and most compassionate care that sexual assault survivors can receive and deserve.

We respectfully ask that the Committee pass this bill. Mahalo for the opportunity to testify.



HAWAII MEDICAL ASSOCIATION

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Phone (808) 536-7702 Fax (808) 528-2376 www.hmaonline.net

Monday January 28, 2013

1:15 p.m.

Conference Room 229

To: COMMITTEE ON HEALTH
Sen. Josh Green, Chair
Sen. 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: SB 526 RELATING TO HOSPITAL EMERGENCY COMPASSIONATE CARE
FOR SEXUAL ASSAULT VICTIMS

In Support.

Chairs & 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.

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M. NALANI FUJIMORI KAINA

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

I am writing, in my personal capacity, in strong support of SB526 which would require all hospitals to provide information and access to emergency contraception to all victims who seek care after rape.

The right to choose has always been available to me. My mother marched in many protests on in Washington in support of the right to choose and always instilled in me the importance of the right to choose. I would find bumper stickers as part of my care packages in college and she was never shy about articulating the importance of the control over one's body. The right to choose for women is critical for women and part of making any choice is the availability of information.

I believe that all women should have access to accurate information about emergency contraception especially for women who are victims of rape and ask that you support this bill to require hospitals to provide this information.

According to the Hawaii Attorney General's Report Crime in Hawaii, in 2011 there were 353 reported forcible rapes in Hawaii. 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.ⁱ The American College of Obstetrics and Gynecology also supports this standard of care.ⁱⁱ

Thank you for this opportunity to provide testimony.

M. Nalani Fujimori Kaina

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

ⁱⁱ 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.

Michael J DeWeert

Testimony on SB 526 – 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 rapist. To withhold the medicine that can prevent this one consequence is to aid and abet his crime.

Now, the 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 fertilized 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 implant in her uterus, no person is harmed.

However, if it does implant, and pregnancy starts, a person's life really is endangered again. Pregnancy and childbirth are dangerous in a way I will never have to face. There are countless examples throughout history - here in Hawaii, princess [Kalanipauahi](#), the 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. So, 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

January 25, 2013

Testimony in Support: SB 526

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

From: Michele Brooks, RN

Re: Testimony in Support of SB 526 Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims.

I strongly support SB 526, 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 represents the best care that survivors deserve.

Providing EC in the ER is the accepted standard of care. That's according to both the American College of Obstetrics and Gynecology and American Medical Association's Guidelines for treating sexual assault victims. And yet, 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. Even providing a prescription is not recommended, as the victim may be too embarrassed to go to a pharmacy and ask for the medication or may not be able to afford the cost of even the co-pay. Suffering a rape is traumatic enough. A woman should not have to suffer substandard care because the owners of the hospital she was taken to didn't believe better care, complete care, was necessary.

Hawaii's most vulnerable patients deserve access to medically-recognized standards of care after a sexual assault, no matter which emergency room they arrive in. Therefore I urge the Committee to pass SB 526. Thank you.

January 25, 2013

Testimony in Support: SB 526

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

From: Misty Pacheco, DrPH, MHA

Re: Testimony in Support of SB 526 Relating to Hospital Emergency Compassionate Care for Sexual Assault Victims.

I strongly support SB 526, which ensure 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%.ⁱ Still some studies have shown that rate to be as low as 16%.ⁱⁱ 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.ⁱⁱⁱ The American College of Obstetrics and Gynecology also supports this standard of care.^{iv} 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 526. Thank you.

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

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

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

^{iv} 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.

From: mailinglist@capitol.hawaii.gov
To: [HTHTestimony](#)
Cc: Pmckenzie@wcchc.com
Subject: *Submitted testimony for SB526 on Jan 28, 2013 13:15PM*
Date: Friday, January 25, 2013 4:33:23 PM

SB526

Submitted on: 1/25/2013

Testimony for HTH on Jan 28, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Patricic Mckenzie	Individual	Support	No

Comments:

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Cc: phyllis.dendle@kp.org
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Date: Saturday, January 26, 2013 3:26:07 PM

SB526

Submitted on: 1/26/2013

Testimony for HTH on Jan 28, 2013 13:15PM in Conference Room 229

Submitted By	Organization	Testifier Position	Present at Hearing
Phyllis Dendle	Kaiser Permanente Hawaii	Support	Yes

Comments:

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Email to: HTHTestimony@Capitol.hawaii.gov
Hearing on: January 28, 2013 @ 1:15 p.m.
Conference Room # 229

DATE: January 25, 2013

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

FROM: Walter Yoshimitsu, Executive Director

RE: **Opposition** to SB 526 Relating to Healthcare

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, St. Francis Healthcare System, does not provide abortion services, including “emergency contraception” which can induce early abortion. While it is true that the former St. Francis hospitals are now operated by Queens 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.

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.

Mahalo for your kind consideration.