

Testimony of John Kirimitsu
Legal and Government Relations Consultant

Before:
Senate Committee on Commerce and Consumer Protection
The Honorable Rosalyn H. Baker, Chair
The Honorable Stanley Chang, Vice Chair

March 23, 2022
9:30 am
Conference Room 229 & Videoconference

Re: SCR 62/SR 57 REQUESTING THE AUDITOR TO CONDUCT A SOCIAL AND FINANCIAL ASSESSMENT OF PROPOSED MANDATORY HEALTH INSURANCE COVERAGE.

Chair Baker and committee members, thank you for this opportunity to provide testimony on SCR 62/SR 57 which requests the auditor to assess the social and financial effects of proposed coverage for sexual and reproductive health care benefits.

Kaiser Permanente Hawaii supports this resolution.

We support asking the legislative auditor to study the social and financial impacts of this proposed mandate for sexual and reproductive health care services. We offer for your consideration a few additional clauses that may make the auditor's study more useful.

BE IT FURTHER RESOLVED that the Auditor is requested to determine if the proposed mandated benefits in this bill are in excess of the essential health benefits, thus requiring the state to defray such costs; and

BE IT FURTHER RESOLVED that the Auditor is requested to research whether the mandating of abortion services, at no cost-share, is in violation of the ACA Sect 1303, which explicitly prohibits abortion from coverage as an "essential benefit."

Thank you for your consideration.

To: Hawai'i State Senate Commerce and Consumer Protection Committee
Hearing Date/Time: Wednesday, Mar. 23, 2021, 9:30 am
Place: Hawai'i State Capitol, Rm. 229 and videoconference
Re: Testimony of Planned Parenthood Alliance Advocates – Hawai'i in strong support of SCR 62

Dear Chairs Baker and Members of the Committees,

All people in Hawai'i – regardless of income, gender identity, or type of insurance – should have access to the full range of preventive sexual and reproductive health services at no cost, especially as communities recover from COVID-19 and high inflation. Planned Parenthood Alliance Advocates – Hawai'i (PPAA) strongly support SCR 62 to conduct a social and financial assessment of the mandatory health insurance coverage proposed under 2021's HB 249, the Reproductive Health Equity Act ("RHEA"), a critical bill to fortify ACA health benefits, safeguard more equitable access to abortion care, expand coverage of critical cost-saving preventive services, and save money in the budget down the road.

The Reproductive Health Equity Act is a critical step toward health equity in Hawai'i by requiring insurance coverage of the full range of sexual and reproductive health care and a set of critical preventive care services often. Given the lingering effects of federal attacks on basic rights and health care and the Supreme Court considering a direct attack to *Roe v. Wade*, it is more important than ever that the legislature act to ensure that nobody loses access to the health care and protections they depend on. RHEA will do just that. We need legislation to codify the Affordable Care Act (ACA) preventive service coverage requirements in state law, ensuring that people in Hawai'i don't lose their access to no-cost preventive services such as birth control, well-person exams, and life-saving cancer screenings. RHEA would also strengthen and expand these coverage requirements by requiring coverage of the full range of sexual and reproductive health care services, including abortion and vasectomy. And it would make sure that all people in Hawai'i can access these important services, regardless of gender, gender identity, or sexual orientation.

While state law requires insurance plans to pay the full range of FDA-approved contraceptives without cost-sharing, thousands of people must pay out-of-pocket for other basic, preventive health services. Without action, people in Hawai'i will continue to delay or forego care altogether due to these out-of-pocket costs, risking their health and economic security. Even with the Affordable Care Act, one in five women with private insurance still pay some out-of-pocket costs for their contraceptive care, and 25 percent of women who are not using their preferred method say it is because they cannot afford it.¹ We are also already experiencing some of the consequences of Hawai'i's coverage gaps in health outcomes: for example, Hawai'i's sexually transmitted infections (STIs) rates are the highest they have been in 30 years, with the STI rates more than doubling over the last ten years.

¹ Frederiksen, B. et al, *Women's Sexual and Reproductive Health Services: Key Findings from the 2020 Women's Health Survey*. Kaiser Family Foundation, April 21, 2021. Available at: <https://www.kff.org/womens-health-policy/issue-brief/womens-sexual-and-reproductive-health-services-key-findings-from-the-2020-kff-womens-health-survey/>

Last year, Hawai‘i lawmakers took a step in the right direction by passing a law allowing Advance Practice Registered Nurses to provide abortion care; this has increased access to abortion across the state and alleviated the pressures of the doctor shortage and the strain that the pandemic has placed on our health system. We can further fortify Hawai‘i’s long-standing history in advancing abortion rights by passing the coverage requirements for abortion care in RHEA into law, and SCR 62 is a critical first step in that effort.

SCR 62 will help us enact a cost-effective solution through RHEA. Protecting and expanding access to sexual and reproductive health is not only the right thing to do, it is also cost-effective for consumers and health plans alike. The services included in this legislation are basic components of comprehensive sexual and reproductive health care and are all associated with significant potential cost savings. That’s because providing basic preventive care avoids the need for more expensive treatment and management down the road; for example, preventing unplanned pregnancies creates significant cost-savings. Therefore, even if some services are determined to be new mandated benefits, in the long term, covering these services would likely be either cost-neutral or even create cost savings for health plans. Because of this cost-effectiveness, requiring coverage of these services would likely have a minimal impact on premiums, which in turn means that there would be minimal additional cost to the state to offset any potential premium increases.

RHEA is similar to coverage requirements in other states. Many other states have already implemented requirements found in RHEA, including the comprehensive sexual and reproductive health requirements. For example:

- In 2018, the Washington Legislature passed Substitute Senate Bill 6219, also known as the Reproductive Parity Act.² This legislation required that state-regulated health plans that cover maternity care provide substantially equivalent coverage for abortion care. It also expanded contraceptive coverage requirements beyond those in the ACA, including gender-neutral coverage of sterilization services for all enrollees and coverage of over-the-counter contraception. None of the requirements in this legislation was determined to be a new mandate that would trigger section 1311(d)(3) of the ACA.
- In 2017, the Oregon Legislature passed House Bill 3391, also known as the Reproductive Health Equity Act.³ This bill required comprehensive, non-discriminatory coverage of sexual and reproductive health care services. This included coverage of abortion and a wide range of other sexual and reproductive health care services at no out-of-pocket cost to the patient.
- In 2019, the Illinois Legislature passed the Illinois Reproductive Health Act, which required public and private insurance plans that provide pregnancy benefits to also cover abortions services – any deductible, coinsurance, waiting period, or other cost-sharing limit that applies to abortion cannot be higher than what the policy requires for other pregnancy care.⁴

² Washington State Legislature, *Senate Bill 6219*, 2018. Accessed at <https://app.leg.wa.gov/billsummary?BillNumber=6219&Initiative=false&Year=2017>

³ Oregon State Legislature, *Senate Bill 3391*, 2017. Accessed at <https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB3391>

⁴ Illinois State Legislature, *House bill 2495*, 2019. Accessed at <http://www.ilga.gov/legislation/billstatus.asp?DocNum=2495&GAID=15&GA=101&DocTypeID=HB&LegID=118530&SessionID=108>

Several states have also put in place laws that codify existing requirements from the ACA to ensure that those important protections stay in place at the state level, no matter what happens at the federal level. For example, in 2017, Washington State enacted legislation requiring state-regulated health plans to cover all preventive services required to be covered under federal law as of December 31, 2016, without cost sharing.⁵ The requirements of this legislation are broader than Hawai‘i’s RHEA, but the reproductive preventive health services are nearly identical to the coverage required in §431:10A-A(a)(1). In the fiscal note for Washington’s legislation, the Washington Office of the Insurance Commissioner (OIC) noted that “[t]his bill does not have a direct fiscal impact on the OIC because the bill maintains coverage of preventive services with zero cost-sharing as they currently exist in Federal law and are currently being enforced by the OIC.”⁶ As OIC rightly stated, these are not new requirements: RHEA and similar legislation in other states simply require health plans to continue covering the basic health care that the ACA already requires them to cover. For example, states must already comply with coverage for any additional preventive women’s services under 42 U.S. Code section 300gg-13 of the ACA; indeed, the scope of federally-required benefits expanded in December 2021.⁷ These federal coverage requirements are already in place across the country and have already been well-defined.

Other states that have passed coverage requirements have found that continuing to require health plans to cover existing mandates in the ACA is simple and minimally burdensome. And other states have also determined that passing legislation that includes broader coverage requirements than those included in the ACA does not necessarily create new mandates, because in some cases these coverage requirements simply clarify and codify the state’s existing commitment to covering comprehensive, non-discriminatory sexual and reproductive health care. ACA requirements also continue to expand and evolve, making the impact of RHEA on Hawai‘i minimal – for example, all plans that have an effective date of June 11, 2020 or later are now required to cover PrEP medication without cost sharing. This RHEA resolution will help Hawai‘i look to the example of other states, learn from their experiences and successes, and better understand the benefits of coverage under RHEA.

RHEA is critical to protect confidentiality. The HIPAA Privacy Rule requires providers and insurers to protect patients’ Personal Health Information (PHI). However, when a patient is not the policyholder of an insurance plan, inadvertent disclosure to the policyholder of details about care and services received may occur, sometimes without their understanding or permission. Without strong protections to prevent such disclosure, young people insured on their parents’ health plan may be deterred from seeking care, particularly sensitive services like reproductive health care and mental health services. Survivors of domestic and sexual assault on their abusers’ health plans may also be prevented from safely accessing care such as contraception and STI testing without their abuser finding out. And if individuals with confidentiality concerns do seek care, they may not be able to use their insurance, forcing them to pay out-of-pocket for services that should be covered by their plans.

⁵ Washington State Legislature, *Engrossed Substitute House Bill 1523*, 2018. Accessed at <https://app.leg.wa.gov/bills/summary/BillNumber=1523&Year=2017&Initiative=false>

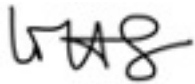
⁶ Washington State Office of Financial Management, *Multi-Agency Fiscal Note Summary for ESHB 1523*, 2018. Accessed at <https://fortress.wa.gov/ofm/fnspublic/FNSPublicSearch/Search/1523/65>

⁷ Health Resources & Services Administration, *Women’s Preventive Services Guidelines: Affordable Care Act Expands Prevention Coverage for Women’s Health and Well-Being* (2021). Accessed at: <https://www.hrsa.gov/womens-guidelines/index.html>

Thousands of people in Hawai'i still lack access to the full range of reproductive health services. Access to comprehensive sexual and reproductive health care, without discrimination, is critical for the health and economic security of people in Hawai'i. RHEA will give more people in Hawai'i the ability to decide if and when they have children based on what's best for them and their family's circumstances. Hawai'i must continue its leadership in promoting all peoples' ability to access the health care they need and deserve, no matter what happens at the federal level. Please give Hawai'i families access to the health care they need to thrive by supporting SCR 62 and giving us the ability to pass RHEA in the future.

Thank you for your consideration and support for this important resolution.

Sincerely,



Lisa Humes-Schulz
Vice President of Policy & Regulatory Affairs
Planned Parenthood Alliance Advocates – Hawai'i