

VIA EMAIL: JUDtestimony@capitol.hawaii.gov

Committee: Committee on Judiciary
Hearing Date/Time: Friday, February 13, 2009, 2:20 p.m.
Place: State Capitol, Conference Room 325
Re: *Testimony of the ACLU of Hawaii in support of H.B. 423 as originally drafted, Relating to Emergency Contraceptives for Sexual Assault Survivors*

Dear Chair Karamatsu and Members of the Committee on Judiciary:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) writes in support of H.B. 423, as originally drafted, which seeks to require hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested. However, we oppose the amendments in H.B. 423, H.D. 1.

Hawaii has a compelling interest state interest in making sure that all rape victims are treated with compassion and receive the nationally recognized standard of care. Hawaii also has a compelling state interest in making sure that all rape victims have timely access to emergency contraception should the victim wish to take that medication.

We respectfully disagree with those hospitals that claim that H.B. 423 must include a provision allowing an institution to refuse to provide emergency contraception for religious reasons. The ACLU believes that when it comes to emergency contraception for rape victims, the primary question for Hawaii should be whether an institution’s refusal burdens victims who do not share and should not share the burden of the refusal to provide emergency contraception. A religiously affiliated hospital is operating for the general public and its refusal to provide access to this kind of emergency medical care directly and adversely impacts on patients of diverse backgrounds and faiths. The refusal impacts on victims who do not even get a choice as to which hospital they are taken to for immediate medical care.

The proposed amendment allowing for the transport of a victim is an unreasonable and medically unsound accommodation because it would allow for hours of delay in providing the full range of treatment to a victim

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

Rape is a crime of violence. All too often a rape victim suffers multiple injuries that require immediate care and she is not in a condition to be transported to another hospital.

The ACLU of Hawaii supports H.B. 423 as originally drafted.

Hawaii should not turn its back on sexual assault survivors and force them to face the added burden of possibly becoming pregnant as a result of rape. The denial of access to contraceptive services for sexual assault survivors has severe repercussions for a woman's right to live her life and her ability to participate equally in society. Simply put, reproductive health care is essential to a woman's opportunity – the opportunity to obtain a good education, to improve her economic circumstances, to participate in public life, to define her family, to decide what makes a meaningful life, and to live that life. Hawaii should not turn its back on sexual assault survivors.

1. This bill is critically important for sexual assault victims on the neighbor islands

According to the most recent Crime in Hawaii report, there were 377 forcible rapes reported to law enforcement in Hawaii in 2007.¹ While Hawaii's overall crime rate was down, the rate of forced rapes increased by 3.9%.² Many of these victims required emergency medical care at one of Hawaii's emergency rooms. Tragically, only six out of Hawaii's twenty emergency rooms provide emergency contraceptive access to sexual assault victims.³ In other words, residents of Maui, Lanai and the Big Island may have no access to emergency contraception in the emergency room. Moreover, in some rural communities, there is only one local hospital. If that hospital does not provide EC, it may be extremely difficult or even impossible for a rape victim to access the care she needs to avoid a pregnancy as a result of the rape.

2. Emergency Contraception is only effective if taken within a few hours of a sexual assault

¹ *Crime in Hawaii*, Hawaii Attorney General's Office, 2007.

² *Id.*

³ To our knowledge, Wilcox Memorial on Kauai, Molokai General, Tripler, Kapiolani, Waianae Coast Comprehensive Health Center and Kahuku Hospital routinely offer EC to sexual assault survivors.

Emergency contraceptive (“EC”) pills, sometimes referred to as “morning-after” pills, can *prevent* pregnancy after unprotected intercourse, including rape.⁴ EC is a concentrated dosage of ordinary birth-control pills that can dramatically reduce a woman’s chance of pregnancy if taken within 72 hours of unprotected intercourse or contraceptive failure. It is most effective if taken within 12 hours of intercourse, but can be effective up to at least 120 hours.⁵

Time is absolutely critical for a woman who wishes to prevent pregnancy after rape. The effectiveness of EC diminishes with delay: experts stress that EC is most effective the sooner it is taken, with effectiveness decreasing every 12 hours.⁶ Therefore, it is extremely important that, during an initial examination, emergency care facilities offer EC to women who have been raped.

3. Major medical groups recommend that EC be offered to women to prevent pregnancy after a sexual assault.

The American College of Obstetricians and Gynecologists and the American Public Health Association recommend that EC be offered to all rape patients at risk of pregnancy.⁷ Likewise, in their guidelines for treating women who have been raped, the American Medical

⁴ For purposes of this fact sheet, EC means emergency contraceptive pills. Intrauterine devices (IUDs) may also be used as post-coital contraceptives if inserted within 5 days of the unprotected intercourse. However, pills are far more commonly used than IUDs as emergency contraception.

⁵ Charlotte Ellertson et al., Extending the time limit for starting the Yuzpe regimen of emergency contraception to 120 hours, 101 *Obstet. Gynecol.* 1168, 1168 (2003); Helena von Hertzen et al., Low dose mifepristone and two regimens of levonorgestrel for emergency contraception: A WHO multicentre randomized trial, 360 *Lancet* 1803, 1809-10 (2002).

⁶ G. Piaggio et al., Timing of emergency contraception with levonorgestrel and the Yuzpe regimen, 353 *Lancet* 721, 721 (1999); see also Task Force on Postovulatory Methods of Fertility Regulation, Randomised controlled trial of levonorgestrel versus the Yuzpe regimen of combined oral contraceptives for emergency contraception, 352 *Lancet* 428, 430-31 & Table 3 (1998).

⁷ American College of Obstetricians and Gynecologists, *Sexual Assault* 242 *Educ. Bull.* 3 (Nov. 1997); 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.

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Association advises physicians to ensure that rape patients are informed about and, if appropriate, provided EC.⁸

Sexual assault victims' groups around the country have also advocated to increase access to EC for rape victims.⁹ In addition, the National Sexual Violence Resource Center has worked to ensure that every sexual assault victim is offered the means to prevent pregnancy when she receives treatment at an emergency care facility.¹⁰

4. The list of states mandating that EC be available in the Emergency Room is growing

Many emergency care facilities fail to provide EC to women who have been raped, and some fail even to inform women seeking care after an assault that such a treatment is available. According to a study by the ACLU, fewer than 40 percent of emergency care facilities (in eight of eleven states surveyed) provide EC on-site to rape victims.¹¹ The failure of hospitals and other facilities treating rape victims to provide EC leaves these women at risk of becoming pregnant as a result of assault. EC is part of comprehensive care for women who have been raped and should be offered on-site by emergency care facilities.

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

⁹ Letter from Montana Coalition Against Domestic & Sexual Violence et al., to Diane M. Stuart, Director, Office on Violence Against Women (January 6, 2005), available at <http://www.aclu.org/ReproductiveRights/ReproductiveRights.cfm?ID=17278&c=30>.

¹⁰ National Sexual Violence Resource Center et al., *Preventing Pregnancy from Sexual Assault: Four Action Strategies to Improve Hospital Policies on Provision of Emergency Contraception* (2003), available at <http://www.nsvrc.org/resources/docs/ECtoolkit.pdf>.

¹¹ A copy of the ACLU briefing paper, *Preventing Pregnancy after Rape: Emergency Care Facilities Put Women at Risk*, may be downloaded at www.aclu.org/reproductiverights/gen/12748pub20041215.html. If you are interested in conducting a survey, the ACLU manual, *EC in the ER: A manual for improving services for women who have been sexually assaulted*, may greatly assist your efforts. For copies of the manual, or for printed copies of the ACLU EC briefing paper, please contact us at office@acluhawaii.org or call 808-522-5900.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

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Six states – California, Massachusetts, New Jersey, New Mexico, New York, and Washington – have passed laws requiring emergency care facilities to offer EC to rape victims they treat. Many other states have introduced similar measures.

5. Emergency care facilities should offer EC to a woman during her initial exam following a sexual assault.

A woman who has been raped who does not obtain EC in an emergency care facility must track down EC on her own. However, a woman who has been raped should not have to seek out additional medical care to prevent pregnancy.¹² In addition to the emotional burden this imposes, a rape victim would face increased risk of pregnancy because of the delay inherent in having to take further steps to track down EC, and in some instances she may be unable to obtain EC at all.

A rape victim is often taken to an emergency care facility by the police or emergency medical technicians. Under these conditions, most women lack the time, information, and opportunity to assess a given hospital's policy and ask to be taken to a facility that provides EC. Nor should these women be expected to do so after surviving such a brutal crime.

A bill that merely requires emergency care facilities to provide information, a referral, or a prescription for EC, fails to ensure women's health and well-being. By the time a woman arrives at an emergency facility, hours may have already elapsed since the rape took place. In the time remaining before the EC will cease to be effective, a woman who is merely informed that EC exists would most likely have to find a pharmacy that carries the medication. Unfortunately, studies show some pharmacies do not stock EC and others refuse to dispense it.¹³ As the hours tick by, her chances of preventing pregnancy decrease. Depending on when the rape occurs and where she lives, obtaining EC in time may be virtually impossible.

¹² Because of recent action by the Food and Drug Administration, EC is currently available at the pharmacy to women 18 and older who present government-issued proof of age. For women under the age of 18 and adult women who do not have government-issued proof of age, a prescription is still necessary to obtain EC.

¹³ Eve Espey et al., *Emergency Contraception: Pharmacy Access in Albuquerque, New Mexico*, 102 *Obstet. Gynecol.* 918, 920 (2003); Clara Bell Duvall *Reproductive Freedom Project of the ACLU of Pennsylvania, Knowledge and Availability of Emergency Contraception in Pennsylvania Pharmacies* (2002), at <http://www.aclupa.org/duvall/ecinpa/pharmacists.html>.

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org

Moreover, in some rural communities, there is only one local hospital. If that hospital does not provide EC, it may be extremely difficult or even impossible for a rape victim to access the care she needs to avoid a pregnancy as a result of the rape.

6. An institution's religious objections to EC must not imperil a woman's access to timely and comprehensive treatment.

Some emergency care facilities, invoking religious objections, refuse to provide EC because it may interfere with the implantation of a fertilized egg. Such objections cannot be allowed to stand against the urgent needs of a woman who has been raped. Emergency care facilities – whether religiously affiliated or not – are ethically and morally obligated to offer the best care possible to everyone who comes through their doors in need of care. EC is basic health care for women who have been raped.

Moreover, emergency care facilities treat and employ people of many faiths; they should not be allowed to impose one set of religious beliefs on the people of diverse backgrounds who provide and seek care. If a hospital is unwilling to dispense EC, it is not equipped to treat rape victims.¹⁴

7. EC prevents pregnancy. It does not induce an abortion.

Emergency contraceptive pills are high doses of oral contraceptives, the birth control pills that millions of women take every day. EC generally works by preventing ovulation or fertilization. It may also work by preventing implantation, although there is no proof of this. EC does not disrupt an established pregnancy, which the medical community defines as beginning with implantation. EC should not be confused with mifepristone (RU-486 or the early-abortion pill), a drug approved by the Food and Drug Administration in September 2000, which causes an abortion in the first 63 days of pregnancy.

H.B. 423, as originally drafted, represents better public policy because it provides protection for all victims regardless of which hospital they are initially transported to. It allows

¹⁴ For a detailed and useful response to religious objections to providing EC for rape victims, see National Sexual Violence Resource Center et al., *Supra* note 9, at 37-39.

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victims to choose whether to take emergency contraception. It will promote the interest of all victims if properly complied with and enforced.

The ACLU of Hawaii strongly urges this Committee to reject the amendments in H.B. 423, H.D.1 and instead pass the H.B. 423 as originally drafted.

The mission of the ACLU of Hawaii is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawaii fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawaii is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawaii has been serving Hawaii for over 40 years.

Thank you for this opportunity to testify and for your attention to this matter. We hope that you will do your utmost to improve the quality of care for survivors of sexual assault in Hawaii.

Sincerely,

Laurie A. Temple
Staff Attorney
ACLU of Hawaii

American Civil Liberties Union of Hawai'i
P.O. Box 3410
Honolulu, Hawai'i 96801
T: 808.522-5900
F: 808.522-5909
E: office@acluhawaii.org
www.acluhawaii.org



A JOINT LEGISLATIVE EFFORT

E-Mail to: JUDtestimony@Capitol.hawaii.gov
Regarding: House Committee on Judiciary
Hearing on: February 13, 2009 @ 2:20 p.m. #325

Date: February 11, 2009

To: House Committee on Judiciary
Honorable Jon Riki Karamatsu, Chair
Honorable Ken Ito, Vice Chair

From: Dennis Arakaki
Executive Director
Hawaii Family Forum / Hawaii Catholic Conference

Re: **Opposition to HB423 HD 1 Relating to Emergency Contraceptives for Sexual Assault Survivors *IF the Religious Exemption is Removed***

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Honorable Chair and members of the House Committee on Judiciary, I am Dennis Arakaki, **representing both the Hawaii Family Forum and the Roman Catholic Church in the State of Hawaii.**

Hawaii Family Forum is a non-profit, pro-family education organization committed to preserving and strengthening families in Hawaii. The Roman Catholic Church in Hawaii, under the leadership of Bishop Larry Silva, represents over 220,000 Catholics in Hawaii.

In 2005, we worked with proponents of this legislation to craft a compromise that would provide an exemption for religiously affiliated hospitals. Under HD1 the Hawaii Medical Centers (HMC) will provide emergency care to sex assault victims by providing medically appropriate transportation in a timely manner to the health care facility or provider of the patient's choice. HMC will assume responsibility for the cost of such transportation. The patient will be informed that she will not be responsible for the cost of the transportation.

This approach of providing a religious exemption allows the legislature to accomplish its overall objectives while still recognizing and tolerating the diverse views of important community institutions like St. Francis, who leases the land to HMC under an agreement that they follow the Ethical and Religious Directives of Catholic Healthcare Services.

Under the HD1 St. Francis (Hawaii Medical Centers) would no longer face government compulsion (as it did in the original HB423) to participate in the potential destruction of human life at its earliest stage.

We urge you to leave intact the religious exemption in the HD1. Mahalo for the opportunity to testify.



February 23, 2009

TO: Rep. Jon Riki Karamatsu, Chair, Committee On Judiciary
Rep. Ken Ito, Vice Chair, Committee On Judiciary
Members, Committee On Judiciary

FROM: Jackie Berry, Executive Director

RE: HB 423, HD1: Relating to Emergency Contraceptives for Sexual Assault
Survivors

Hearing: February 13th, Friday at 2:20 pm

Honorable Chairperson Karamatsu, Vice Chairperson Ito, and Members of the Committee on Judiciary

HMHB is a statewide coalition of public and private agencies and individuals committed to the improvement of maternal and infant health status in Hawaii through education, coordination and advocacy. **HMHB is testifying today in support of the original bill HB423** to ensure that victims of sexual assaults are given information about emergency contraception when they receive medical care at a hospital for sexual assault, and those they have immediate access to emergency contraception if they request it.

Emergency Contraception (EC) is a safe and effective FDA approved method of preventing unintended pregnancy following unprotected sex. Medical research strongly indicates that the sooner EC is administered post exposure, the better the change of preventing an unintended pregnancy. EC will not terminate a pregnancy if a woman is already pregnant. The American College of Emergency Physicians (ACEP) and the American College of Obstetricians and Gynecologists (ACOG) concur that EC counseling and treatment should be offered to all victims of sexual assault if it is determined that they are at risk for pregnancy.

The hospital is often the first point of medical contact for victims of sexual assault and those hospitals should be providing the full range of rape counseling and treatment services to those who seek care. Women have a right to receive all information on treatment options for their health and well being. Facilities that do not provide access to this information and care are depriving their patients of the right to make an informed decision for themselves regarding preventing an unintended pregnancy that may result from rape.

Thank you for opportunity to testify

1500 South Beretania St, #308, Honolulu Hawaii 96826
phone # (808) 951-5805, fax # (808) 941-4102
e-mail: jackieb@hmhb-hawaii.org website: www.hmhb-hawaii.org

1500 South Beretania St, #308, Honolulu Hawaii 96826
phone # (808) 951-5805, fax # (808) 941-4102
e-mail: jackieb@hmhb-hawaii.org website: www.hmhb-hawaii.org

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1350 S. King Street • Suite 309 • Honolulu, Hawaii 96814 • Phone: (808) 589-1156 • Fax: (808) 589-1404

February 13, 2009

Testimony in Support: HB 423, HD1

To: Representative Jon Riki Karamatsu, Chair and Representative Ken Ito, Vice Chair and Members of the House Committee on Judiciary

From: Katie Reardon, Vice President of Government & Public Affairs Planned Parenthood of Hawaii.

Re: Testimony in Support of HB 423, HD1

I thank the Committee for hearing this bill today and for allowing me the opportunity to testify in support of HB 423, which provides all sexual assault victims with information and access to emergency contraceptives in emergency rooms. I understand that this is a familiar bill to the legislature and I urge you to support it. Planned Parenthood of Hawaii strongly supports this bill as it ensures that our most vulnerable and victimized citizens receive the best standard of emergency care. However, we urge the committee to reject the amendment exempting some hospitals from providing this standard of care.

I. HB 423, HD1 Requires Emergency Rooms Provide Information About and Access to Emergency Contraceptives to Sexual Assault Victims.

HB 423, requires all Hawaii hospitals to provide information regarding emergency contraceptives to all sexual assault victims who seek treatment in their emergency rooms, and for those victims who request it, to administer EC. Providing EC is the standard of care accepted by the medical community, however some hospitals neglect or refuse to provide this basic care to sexual assault victims. This bill will ensure that all sexual assault victims receive the same quality of medical care, thereby reducing the number of pregnancies resulting from rape and mitigating the inevitable trauma caused by this violent offense.

II. Sexual Assault is a Frequent and Traumatic Occurrence for Hawaiian Women.

In 2007 there were 248,300 rapes in the United States.¹ According to the most recent Crime in Hawaii report, there were 377 forcible rapes reported to law enforcement in Hawaii in 2007.² While the overall crime rate was down, the rate of forced rapes increased by 3.9%.³ Notable is the many rapes that go unreported each year. Major studies show that reporting rates for rape and sexual assault are approximately

¹ *National Crime Victimization Survey*, US Department of Justice Bureau of Crime Statistics, 2005

² *Crime in Hawaii*, Hawaii Attorney General's Office, 2007

³ *Id.*

Honolulu Clinic
1350 So. King Street
Suite 310
Honolulu, HI 96814
(808) 589-1149

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

Kahului Clinic
140 Hooehana Street
Suite 303
Kahului, Maui, HI 96732
(808) 871-1176

(A Maui United Way Agency)

40%.⁴ Still some studies have shown that rate to be as low as 16%.⁵ Many of these victims required emergency medical care at one of Hawaii's emergency rooms.

Spouse, neighbor, or stranger- no matter who the perpetrator, sexual assault is a life threatening event and one that leaves victims with not just physical injury, but with long term emotional scars, including depression, anxiety, and intense fear.⁶ Approximately one third of all victims suffer from Post Traumatic Stress Disorder.⁷ Many victims require extensive counseling or therapy to heal from their assaults. Left untreated, sexual assault can lead to significant long term mental health problems.

III. Pregnancy Resulting from Rape Causes Victims Further Trauma.

Lingering health concerns exacerbate the trauma of a sexual assault. All victims must deal with the reality of reproductive health concerns following an assault. Each victim faces the possibility of contracting an STI or becoming pregnant as the result of a 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. The violation is perhaps the most intimate and violent act one can experience. For some victims, pregnancy does occur. 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.⁸ A total of 32.4 percent of these victims did not discover they were pregnant until they had already entered the second trimester; 32.2 percent opted to keep the infant whereas 50 percent underwent an abortion and 5.9 percent placed the infant for adoption; and additional 11.8 percent had spontaneous abortion.⁹

A pregnancy resulting from rape is not just unplanned, it is forced. Denying victims the information and autonomy to make sound medical decisions regarding their reproductive health only furthers the violation of a rape.

IV. Emergency Contraception is Standard of Care for Sexual Assault Victims and is Supported by the Community.

EC is a safe and effective means of preventing pregnancy after a sexual assault. It is not an abortion pill, nor does it cause abortion. EC is a higher dose contraceptive, similar to the commonly used birth control pill. EC, when taken within 72 hours of an assault, prevents ovulation and fertilization of an egg. It may, but has not been conclusively shown to, prevent implantation of an egg. EC has been approved by the FDA.¹⁰

⁴ *National Crime Victimization Survey, 2005*

⁵ National Center for Victims of Crime & Crime Victims Research and Treatment Center, *Rape in American: A Report to the Nation*, (1992).

⁶ See, American Medical Association, *Strategies for the Treatment and Prevention of Sexual Assault*, (1995), stating that 80% of sexual assault victims seek services related to mental health needs some time after the assault.

⁷ National Center for Victims of Crime & Crime Victims Research and Treatment Center, (1992).

⁸ 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).

⁹ *Id.*

¹⁰ See Task Force on Postovulatory Methods of Fertility Regulation. *Randomised controlled trial of levonorgestrel versus the Yuzpe regimen of combined oral contraceptives for EC*. *The Lancet* (1998), 352: 428-433.

Providing EC to sexual assault victims is the best practice in emergency medical care. Various professional medical associations have stated that this is the preferred standard of care.

The **American Medical Association** has published guidelines for the emergency treatment of sexual assault victims. Those guidelines call for the provision of EC to victims.¹¹

The **American College of Obstetrics and Gynecology** has also established guidelines for treatment of sexual assault victims. In “Acute Treatment of Sexual Assault Victims”, ACOG states Emergency contraception should be offered to all victims of sexual assault if they are at risk of pregnancy.¹²

In a 2005 statewide survey of voters, conducted by Planned Parenthood of Hawaii through the services of QMark, a research and polling company, 84 percent of the respondents stated that victims of rape should receive medically accurate information and should be offered EC.

Nonetheless, some of our hospitals do not provide EC, or even information about EC to victims. According to an informal telephone survey, out of 17 hospitals, only 4 stated that they routinely offer EC to sexual assault victims in their emergency rooms.¹³ Five Oahu hospitals refer victims to Kapiolani Medical Center where they can receive EC, if those victims choose to undergo a forensic rape kit examination.¹⁴ Victims deserve the best care, no matter the hospital they visit. Especially in Hawaii, victims may not be able to choose which hospital they report to. In light of the violence every sexual assault victim experiences, denying a sexual assault victim proper care is unconscionable. HB 423 ensures that no matter which hospital a victim is seen, she receives the best standard of care.

Twelve states have enacted similar legislation regarding EC for sexual assault victims. Those states include: **California, Connecticut, Massachusetts, Minnesota, New Jersey, New Mexico, New York, Ohio, Oregon, Pennsylvania, Washington, and Wisconsin**¹⁵

IV. Amendment

The House Committee on Health amended this bill to allow an exemption for religious affiliated hospitals to refrain from administering EC. The amendment requires these hospitals provide information about EC as a treatment option, a written disclosure that the hospital does not provide EC and that it is no fault of the patient's, and, if the patient chooses EC, immediate transport to a hospital that will administer EC at the hospital's cost.

I strongly urge you to reject this amendment. The amendment allows for the continued denial of EC at hospitals that qualify for the exemption, counter to the purpose of this bill. Furthermore, the exemption jeopardizes victims' physical and mental health. As stated above, for EC to be effective, time is of the essence. Potential delays resulting from the amendment could render EC ineffective. Many victims have other injuries requiring medical attention, which may be compromised due to the delay caused by this amendment, or may render the transport to another facility for effective EC treatment impossible.

¹¹ See, *Strategies for the Treatment and Prevention of Sexual Assault*.

¹² See, 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.

¹³ Hospitals include Molokai General, Wilcox Memorial on Kauai, Kapiolani Medical Center, Waianae Coast Comprehensive Health Center, and Tripler.

¹⁴ Hospitals include Kuakini Medical Center, Queens Medical Center, Wahiawa General Hospital, Straub Hospital, and Kaiser.

¹⁵ Access to Emergency Contraception, State Policies in Brief, as of February 1, 2009, Guttmacher Institute. Available at: http://www.agi-usa.org/pubs/spib_EC.pdf.

The process suggested by the amendment will cause emotional harm to rape victims. The prospect of being denied medical care, being transported to another location, and having to re-tell the story of a rape is discouraging and damaging to victims. A 2005 study found: Victims who experience negative reactions when first disclosing their sexual assault are more likely to experience PTSD and less likely to make subsequent disclosures.¹⁶ Victims who were required to make multiple disclosures, regardless of negative reactions, suffered from more acute PTSD symptoms.¹⁷

The amendment is not motivated by any legal requirement. The bill is not an impermissible infringement on religious freedom, as it does not plainly prohibit religious practice, its purpose is wholly unrelated to religion, and it is narrowly tailored to achieve its laudable purpose.¹⁸ The sole testifier suggesting and supporting this amendment in front of the House Committee on Health was a representative from the St. Francis Health Care System. To be clear, St. Francis no longer owns or operates a hospital in Hawaii.¹⁹ What health services it does run are unaffected by this bill. The St. Francis testimony was given on behalf of Hawaii Medical Centers (HMC). HMC is not operated by St. Francis or any other religious organization. Indeed, when visiting HMC's website and reading its mission statements, there is little or no mention of any religious affiliation.²⁰

HMC does claim that it has a property interest in the amendment, pointing to agreements it made when it leased the property from St. Francis. It is a long held legal tenet that restrictive covenants on land that violate fundamental rights cannot be legitimized by state action.²¹ An entity's property interests cannot outweigh a victim's right to basic health, safety and protection, or a woman's constitutional right to privacy in her body and reproductive health decisions. To be of assistance in striking such an imbalance is to put an undue burden on fundamental rights.

IV. Please Support HD 423 as Originally Drafted and Support Hawaii's Sexual Assault Victims.

HB 423 is essential to providing the best quality of care for sexual assault victims, who after a rape are challenged with myriad physical and emotional injuries. Crucial to a victim's healing is restoring her ability to make decisions and have control over her own body. This bill is a meaningful step towards assisting victims and lessening their trauma, as well as restoring their power. All victims deserve the best standard of care no matter what ER they arrive in, and passing this bill without amendment will ensure that they do. We ask you to pass HB 423. Thank you for this opportunity to testify today.

¹⁶ 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.

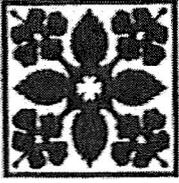
¹⁷ Id.

¹⁸ *Employment Div. v. Smith*, 494 U.S. 872, 879 (1990).

¹⁹ See St. Francis Website, About Us, Historical Timeline, accessed from <http://www.stfrancishawaii.org/About/Pages/Timeline.aspx>

²⁰ See Hawaii Medical Centers Website accessed from <http://www.hawaiimedcen.com/hmc/> and HMC mission accessed from <http://www.hawaiimedcen.com/hmc/mission.html>

²¹ *Shelley v. Kraemer*, 334 U.S. 1 (1948).



Hawai'i Women's Political Caucus

P.O. Box 11946
Honolulu, Hawai'i 96828
(808) 732-4987

Faye Kennedy
President

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Director

Gladys Gerlich-Hayes
Director

Joy Kobashigawa-Lewis
Director

Alice Tucker
Director

A State Chapter of the
National Women's
Political Caucus

February 12, 2009

TO: Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice Chair and
Members of the House Committee on Judiciary

FROM: Faye Kennedy, President, Hawai'i Women's Political Caucus

RE: HB423 HD1 Relating to Emergency Contraceptives for Sexual Assault Survivors
(Friday, February 13, 2009 at 2:20pm, Conference Room 325)

POSITION: SUPPORT WITH AMENDMENTS

Good afternoon, Chair Karamatsu Vice Chair Ito and members of the House Committee on Judiciary. I am Faye Kennedy representing the Hawai'i Women's Political Caucus and submitting testimony in support of HB423 HD1 which requires hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested. It provides for administrative penalties for non-compliance.

HD1 includes a religious exemption to religiously affiliated hospitals claiming a religious objection.

SUGGESTED AMENDMENTS:

Please remove the religious exemption and the amendments in HD1. This is opposite of the intent of the bill. Potential delays resulting from the amendment could render emergency contraception ineffective. Many victims have other injuries requiring medical attention, which may be compromised due to the delay caused by this amendment, or may render the transport to another facility for effective emergency contraception treatment impossible.

The process suggested by the HD1 amendments will cause emotional harm to rape victims. The prospect of being denied medical care, being transported to another location, and having to re-tell the story of the rape is discouraging and damaging to victims. A 2005 study found: Victims who experience negative reactions when first disclosing their sexual assault are more likely to experience PTSD and less likely to make subsequent disclosures.¹ Victims who were required to make multiple disclosures, regardless of negative reactions, suffered from more acute PTSD symptoms.²

The Hawai'i Women's Political Caucus was established in 1981 and is a multi-partisan organization committed to increasing women's participation in the political process and increasing their representation in elected and appointed office. HWPC also supports male candidates committed to its goals. HWPC is dedicated to equality in employment, stopping all violence against women, and improving the health and well-being of women and families. Reproductive freedom is one of our most fundamental issues. The HWPC is a state chapter of the National Women's Political Caucus.

We urge your Committee to pass this important women's bill that ensures us of our reproductive rights. Thank you for the opportunity to submit testimony in strong support of this measure with amendments.



THE SEX ABUSE TREATMENT CENTER

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

Executive Director
Adriana Ramelli

Advisory Board

President
Mimi Beams

Vice President
Peter Van Zile

Marilyn Carlsmith

Senator
Suzanne Chun Oakland

Monica Cobb-Adams

Dennis Dunn

Senator
Carol Fukunaga

Tina Watson

Frank Haas

Philip Hyden, M.D.

Roland Lagareta

Willow Morton

R. Carolyn Wilcox

DATE: 02/13/2009

TO: The Honorable Jon Riki Karamatsu, Chair
The Honorable Ken Ito, Vice Chair
Committee on Judiciary

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

RE: HB423 HD1
Sexual Assault; Emergency Contraception

Good afternoon Representatives Karamatsu and Ito and members of the House Committee on Judiciary. 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 Hawaii Pacific Health.

The SATC supports the intent of HB423 HDI, but strongly urges the committee to remove section 321-D, which provides an exemption to religiously affiliated hospitals. We believe that sexual assault victims have the right to be informed about and receive emergency contraception, if they so choose, at all hospitals in Hawaii.

Offering emergency contraception is a time-sensitive issue. The medication needs to be administered within 72 hours of the sexual attack to be effective. It is not uncommon for victims to delay seeking immediate medical care because the realities of a sexual assault are often too painful to face. It is therefore imperative that victims receive prompt medical attention, including information and immediate access to emergency contraception, if wanted, at all hospitals. Also importantly, providing emergency contraception to sexual assault victims is included in the standards of emergency care guidelines of both the American Medical Association and the American College of Obstetrics and Gynecology.

Sexual assault is a horrific act of violence; and following an attack, women are left to cope with the raw painful emotions of a situation that was forced upon them. In addition, these women are forced to cope with and manage the many physical consequences of sexual violence. An unwanted pregnancy is one such example of these many physical consequences. Every year, approximately 300,000 women are raped and about 25,000 women become pregnant as the result of a sexual assault (Steward, Trussell American Journal of Preventive Medicine Nov. 2000).

Victims of sexual assault should have the right to access therapeutic and medical care following an assault as well as the right to determine their own course of action after an event that stripped them of all of their control.

The SATC is a community program designed to support the needs of victims and is available to them following an assault. The KMCWC is the designated hospital for

sexual assault victims to receive a comprehensive medical-legal examination. This examination entails the detection and treatment of injuries, collection of legal evidence, testing for sexually transmitted diseases, and pregnancy testing. If a victim is concerned about or at risk for an unwanted pregnancy, the examining physician will offer information about and discuss the option of prescribing the emergency contraceptive pill.

Medical Centers on Oahu are aware of the forensic medical services of the SATC and do refer victims to the KMCWC Emergency Department for the comprehensive examination. This system works when victims want the comprehensive forensic examination services of the SATC. However, not all choose this method of care and may be concerned only about becoming pregnant from the assault. If this is the case, the system works when a victim can walk into any emergency room, be evaluated for the risk of pregnancy, and offered the option of emergency contraception.

We strongly urge the committee to pass HB423 HD1 with an amendment to remove section 321-D, which provides an exemption to religiously affiliated hospitals. All victims of sexual violence deserve a sound public policy that is standards based, compassionate and supports a woman's right to protect herself against an unwanted pregnancy from a sexual assault.

Thank you for this opportunity to testify.



Hawaii Medical Center East
2230 Liliha Street, P.O. Box 30100, Honolulu, HI 96820-0100
Phone: (808) 547-6011

February 12, 2009

EMAIL TO: JUDtestimony@capitol.hawaii.gov.

TO: The Committee on Judiciary
HEARING DATE: Thursday, February 12, 2009
HEARING TIME: 2:20 pm
HEARING PLACE: Conference Room 325
State Capitol
415 South Beretania Street

FROM: Collin Dang, MD
President and CEO, Hawaii Medical Center, LLC

MEASURE NUMBER: HB423 HD1
RELATING TO EMERGENCY CONTRACEPTIVES FOR
SEXUAL ASSAULT SURVIVORS.

NO. OF COPIES: 3

I am the President and CEO of Hawaii Medical Center, and have been a practicing cardiac surgeon in Honolulu for 32 years.

I am in support of HB423 HD1 for the following reasons:

- 1) St. Francis Medical Center has served the health needs of the people of Hawaii for over 80 years while maintaining its Catholic tenets. The owners of Hawaii Medical Center believe that the Sisters of St. Francis had and have an honorable mission, and have purchased St. Francis Medical Center agreeing to continue that mission and maintaining the Catholic tenets. Mandating emergency contraception forces Hawaii Medical Center to violate its purchase agreements.
- 2) There is no proof that immediate treatment in any emergency room prevents pregnancy. Emergency contraception and support for rape victims is available at other hospitals in Honolulu. It is preferable that rape victims be transferred to institutions that have a complete support system to deal with such situations. Hawaii Medical Center would be willing to transfer patients who show up in its emergency rooms to hospitals with such a support system at Hawaii Medical Center's expense.

Collin R. Dang, M.D.

*PAMELA LICHTY, MPH
MEMBER, ACLU OF HAWAII LEGISLATIVE WORKING GROUP
Honolulu, HI 96816
808 224-3056
pamelalichty@gmail.com*

TO: House Committee On Judiciary

RE: HB 423, HD1 Relating to Emergency Contraceptives for Sexual Assault
Survivors – in support of original measure

DATE: February 13, 2009 at 2:30 PM, room 325

Chair Karamatsu and Members of the Committee on Judiciary:

As a long time advocate for public health and especially women's health care, in the state of Hawai'i I'm testifying in support of the original language of HB 423 which would require hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested.

Hawai'i should not turn its back on sexual assault survivors and force them to face the added burden of possibly becoming pregnant as a result of rape. The denial of access to contraceptive services for sexual assault survivors has severe repercussions for women's right to live their lives and their ability to participate equally in society. Simply put, reproductive health care is essential to a woman's opportunity – the opportunity to obtain a good education, to improve her economic circumstances, to participate in public life, to define her family, to decide what makes a meaningful life, and to live that life.

Given this, I must oppose the religious exemption clause in the House Draft 1. At this traumatic time in a woman's life, after a frightening and possibly life threatening experience, it is insensitive to her needs to pack her off in a taxi to another hospital with no philosophical objection to emergency contraception. Science indicates that e.c. does not cause a miscarriage or a spontaneous abortion and is not an abortifacient. Let us stop making rape survivors into objects for religious-affiliated hospitals to treat in a cavalier fashion.

According to the most recent Crime in Hawaii report, there were 377 forcible rapes reported to law enforcement in Hawaii in 2007. While Hawaii's overall crime rate was down, the rate of forced rapes increased by 3.9%.^[2] Many of these victims required emergency medical care at one of Hawaii's emergency

rooms. Tragically, according to a 2002 survey conducted by Healthy Mothers, Healthy Babies, only 2 out of Hawaii's 20 emergency rooms provide emergency contraceptive access to sexual assault victims.

Further, please consider the following points:

- All emergency care facilities should offer EC to a woman during her initial exam following a sexual assault.
- Major medical groups recommend that EC be offered to women to prevent pregnancy after a sexual assault.
- A bill that merely requires emergency care facilities to provide information, a referral, or a prescription for EC, fails to ensure women's health and well-being.
- All emergency care facilities should be required to provide EC.
- An institution's religious objections to EC must not imperil a woman's access to timely and comprehensive treatment.
- **EC prevents pregnancy. It does not induce an abortion.**

Passage of this bill is long overdue. Survivors of sexual assault deserve the provision of up to date and compassionate medical options at this most traumatic time. Thank you for this opportunity to testify. We hope that you will do your utmost to improve the quality of care for survivors of sexual assault in Hawaii.

Thank you for the opportunity to testify.



WOMEN'S CAUCUS

DEMOCRATIC PARTY OF HAWAII

Hawai'i State Democratic Women's Caucus 1050 Ala Moana Blvd #D-26, Honolulu, HI 96814 Email: hidemocraticwomenscaucus@yahoo.com

February 13, 2009

To: Representative Jon Riki Karamatsu, Chair
Representative Ken Ito, Vice Chair and
Members of the Committee on Judiciary

From: Jeanne Ohta, Chair of Legislative Committee, Hawai'i State Democratic Women's Caucus

Re: HB 423, HD1 RELATING TO EMERGENCY CONTRACEPTIVES FOR SEX ASSAULT
SURVIVORS
(February 13, 2009, 2:20 p.m., Room 325)

Position: SUPPORT

Thank you for hearing this bill and for allowing me to present testimony today, in support of HB 423 HD1, preferring the original form of the bill.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawai'i's women and girls. It is because of this mission, the Women's Caucus supports this measure which provides for an accepted standard of medical care for victims of sexual assault; but request that the committee remove the religious exemption.

Problems with transporting patients:

The current version of the bill allows hospitals using the religious exemption to transport sexual assault victims to another hospital. What is meant by transportation? How long should the patient wait before being transported? Who should transport her? These may seem merely logistical issues, but transporting a trauma victim must be carefully considered. Should the hospital be allowed to put the patient alone in a taxi with a male driver after she has just been assaulted? Should the hospital be allowed to make her wait for two hours, what is an appropriate time frame? For the convenience of the hospital, an undue burden is placed on a traumatized woman.

Patients' Rights:

Patients have a right to know when they enter a hospital that the hospital's medical care is limited by its religious values. Women need to know that the Hawaii Medical Center provides a lower level of care. Health care providers do not have the right to make decisions about the patient's treatment related to the rape, or withhold information that would allow her to make an informed decision; nor should the state allow them to withhold needed treatment that is considered a standard of care.

Catholic Beliefs:

Opponents have argued that their lease prevents them from violating Catholic beliefs. In fact, Catholic beliefs include the concept that women can protect themselves from the sex assault and that efforts should be made by health care professionals to prevent any further harm to her. In an article on the ethics of emergency contraception and sexual assault, Ronald Hamel, Senior Director of Ethics of the Catholic Health Association, St. Louis wrote:

“First, Directive 36 is contained in the professional-patient relationship section of the ERD (Ethical and Religious Directives) and not in the beginning of life section. This suggests that treating a woman who has been sexually assaulted is primarily an issue of caring for a vulnerable patient in the context of the therapeutic relationship, allowing for some degree of discretion on the part of the professional and patient within moral limits. The decision about whether to use emergency contraception is one that is rightly made between the woman and her physician, taking into account medically and morally significant considerations. Some women will choose to accept emergency contraception solely on the basis of the exclusion of a prior pregnancy.”¹

Standard of Care:

We call your attention to the American Medical Association’s Guidelines for treating sexual assault victims which states that victims should be informed about and provided EC.² The American College of Obstetrics and Gynecology also supports this standard of care.³ We simply cannot allow care that does not meet established standards. In the aftermath of rape, victims find themselves dealing with a host of reproductive and sexual health issues, including pregnancy. Providing information about EC and administering EC within the recommended 72 hours can prevent pregnancy. Women who have been raped have a particularly compelling need for quick and easy access to EC.

We ask this committee to ensure that sex assault victims are provided with this standard of care no matter where treatment is sought; and that hospitals are not excused from their duty to provide these accepted standards of care. All hospitals should provide emergency care to sexual assault survivors with written and oral information about EC that is medically and factually accurate. In addition, all sexual assault survivors should be provided an option to receive emergency contraception at the hospital.

There is overwhelming support for offering EC to women following a sexual assault. One survey found that 78 percent of women feel their hospital should provide EC for anyone who has been raped (Catholics for Free Choice, 2000). A survey of registered voters conducted for Planned Parenthood Action Fund in June 2001 confirmed these findings: three of four voters favored requiring all hospitals to make EC available to women who have been raped.

Providing EC to survivors of sexual assault is good medical practice, regardless of a hospital’s religious affiliation. The women of Hawaii deserve a standard of medical care that is NOT dictated by religious beliefs. Please do not allow religious interference in the medical care of sexual assault survivors.

¹ Hamel, Ronald P., and Pancicola, Michael R., “Emergency Contraception and Sexual Assault,” Health Progress, Catholic Health Association of the United States, September/October 2002.

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

³ 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

VIA EMAIL: JUDtestimony@capitol.hawaii.gov

Committee: Committee on Judiciary
Hearing Date/Time: Friday, February 13, 2009, 2:20 p.m.
Place: State Capitol, Conference Room 325
Re: *Testimony of the Gail P. Gnazzo, MS, in support of H.B. 423 as originally drafted, Relating to Emergency Contraceptives for Sexual Assault Survivors*

Dear Chair Karamatsu and Members of the Committee on Judiciary:

I write in support of H.B. 423, as originally drafted, which seeks to require hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested. However, I oppose the amendments in H.B. 423, H.D. 1.

Hawaii has a compelling interest state interest in making sure that all rape victims are treated with compassion and receive the nationally recognized standard of care. Hawaii also has a compelling state interest in making sure that all rape victims have timely access to emergency contraception should the victim wish to take that medication.

H.B. 423 must not include a provision allowing an institution to refuse to provide emergency contraception for religious reasons. When it comes to emergency contraception for rape victims, the primary question for Hawaii should be whether an institution's refusal burdens victims who do not share and should not share the burden of the refusal to provide emergency contraception. A religiously affiliated hospital is operating for the general public and its refusal to provide access to this kind of emergency medical care directly and adversely impacts on patients of diverse backgrounds and faiths. The refusal impacts on victims who do not even get a choice as to which hospital they are taken to for immediate medical care.

The proposed amendment allowing for the transport of a victim is an unreasonable and medically unsound accommodation because it would allow for hours of delay in providing the full range of treatment to a victim.

Rape is a crime of violence. All too often a rape victim suffers multiple injuries that require immediate care and she is not in a condition to be transported to another hospital.

Thank you for this opportunity to testify and for your attention to this matter. I hope that you will do your utmost to improve the quality of care for survivors of sexual assault in Hawaii.

Sincerely,

Gail P. Gnazzo, MS
Makawao, Hi. 96768
Maui Director, ACLU Board of Directors

karamatsu3-Leanne

From: Marjorie Erway [merway@hawaii.rr.com]
Sent: Wednesday, February 11, 2009 9:54 PM
To: JUDtestimony
Subject: HB 423 HD 1, Feb. 13 @ 2:20p, House Comm. on Judiciary, Rm. 325 - 17 copies

Categories: Orange Category

Aloha Chair Karamatsu, Vice Chair Ito, and Judiciary Committee members!

I believe, as I hope you do, that all sexual assault victims deserve the best standard of care, no matter what ER they arrive in. Providing Emergency Contraception (EC) is the accepted standard of care. However, many ER's in Hawaii do not dispense EC, or even provide this important information to victims reporting to their ER.

A House version of this bill, HB 423, has passed the House Committee on Health with an amendment that provides for a religious exemption, allowing religious affiliated hospitals to refrain from administering EC. The amendment requires these hospitals provide information about EC as a treatment option, a written disclosure that the hospital does not provide EC and that it is no fault of the patient's, and, if the patient chooses EC, immediate transport to a hospital that will administer EC at the hospital's cost.

This laborious process suggested by the amendment, will cause unnecessary emotional harm to rape victims. It certainly is NOT the accepted standard of care.

Please support HB 423 without the amendment. Delete HD1, and pass HB 423 as originally written.

Mahalo and sincerely,
Marjorie Erway
PO Box 2807
Kailua-Kona, HI 96745
808-324-4624

February 12, 2009

TO: Representatives Jon Riki Karamatsu and Ken Ito
House Committee on Judiciary

FROM: Melinda Wood, private citizen

SUBJECT: In Support of HB 423, HD 1

Thank you for the opportunity to testify on HB 423, HD 1 Relating to Emergency Contraceptives for Sexual Assault Survivors. As this is an emotional issue for some people, let me begin with the facts. Emergency contraception (EC) is simply a high dose of birth control pills. It prevents ovulation, fertilization, or implantation of an egg, when taken within 72 hours, in this case, after a rape. It is not the “abortion pill.” EC is a safe and effective way to prevent pregnancy.

Use of EC is part of the medically accepted standard of care for rape survivors. Both the AMA and the American College of Obstetrics and Gynecology support this standard. In compliance these standards and with Hawaii state criminal statutes, it is made available to all rape survivors who report their assault to the police. These survivors are taken to the Sex Abuse Treatment Center to receive the highest level of professional and compassionate care.

However, some survivors may not report their assault to the police and/or may not realize the extent of their injuries immediately. If they choose to go to the nearest hospital or emergency facility, they have no assurance that it follows the accepted medical standards of care. While these victims may be relatively few in number (no figures are available), their trauma and suffering is no less than those who do file a police report. In fact, they may have an even greater level of fear if their rapist is a friend or family member who has threatened them not to go to the police; imagine how much they could fear getting pregnant by that person, especially if the personnel who treat them do not offer the option of EC.

In past years, there has been some debate in Hawaii regarding religious exemptions for some medical facilities, notably the former St. Francis Hospitals. These facilities have been bought out and taken over by a private, for-profit group of doctors, renaming the facilities to Hawaii Medical Centers (HMC). The Catholic order of nuns who own the land under the facilities claim to have a contract with HMC that requires them to follow the Catholic tenets regarding birth control and abortion. This is objectionable and specious on several counts. First, a number of Catholic hospitals around the country that have found guidance in their beliefs and covenants that enable them to offer EC to sexual assault victims in their facilities. Second, HMC is not a religious entity—it is a doctor-owned private corporation that leases its land from St. Francis Healthcare Systems. HMC’s stated mission is “To provide superior healthcare, in a compassionate and patient-centered environment where the inherent dignity of the human being is emphasized [emphasis added]. The mission goes on to say that HMC “put[s] patient needs first” and “ensure[s] the care they provide will reflect current best practices.” Their vision includes “optimum patient care and health outcomes.” However, their mission and vision cannot be fulfilled by seeking a religious exemption to this bill. It seems to me that the relationship between the landowner and the leaseholder needs to be explored in much greater legal depth,

perhaps similar to how Bishop Estate lands were examined by our courts in decades past. Finally, twelve other states have passed similar legislation to HB 423, HD 1, including several that fall under the jurisdiction of the same Circuit Court as Hawaii.

I highly recommend that the Hawaii House of Representatives acknowledge that the rights of rape survivors to receive the medically accepted standards of care should supercede the rights of hospital landowners to deny that care to them. Please support emergency contraception for sexual assault survivors. Should you wish to discuss this further with me, you may call me at 945-0135. After many years of debate on this issue, I look forward to a positive outcome this year.

MELANIE KELLY, MD

February 12, 2009

EMAIL TO: JUDtestimony@capitol.hawaii.gov.

TO The Committee on Judiciary

HEARING DATE: Thursday, February 13, 2009

HEARING TIME: 2:20 pm

HEARING PLACE: Conference Room 325
State Capitol
415 South Beretania Street

NO. OF COPIES:3

Re: In Support of HB423 HD 1

Dear Rep. Karamatsu, Vice Chair Ito and Committee Members:

I am a physician and Medical Director at the Hawaii Medical Center Emergency Departments. I have practiced Emergency Medicine in Hawaii for over twenty years, and have experience in managing a Family Planning clinic for 6 years.

I am personally and professionally in favor of emergency contraception, and its widespread availability. I also strongly believe that each physician and healthcare system must weigh its options and make informed decisions on whether they would choose to participate in providing contraception. They should be allowed to make choices and to have the freedom to practice according to their choices. This right should be protected by the first amendment.

Women have 72 hours to obtain and take emergency contraception. Emergency physicians can, and should provide education to these patients about their options, then pharmacies can provide the medication if this option is chosen.

The State also is taking the position that our system is not prepared to fund and implement a program requiring all Emergency Departments to be able to provide on-site Emergency contraceptives. It may be much simpler option to implement this program at a select few Emergency Departments who serve this population most frequently, or to provide the medication through pharmacies in coordination with Emergency Department prescriptions.

In summary, I am in support of this bill because

- I believe health care providers and systems need to make and stand by their ethical choices on this matter
- The State is not prepared to fund or implement the ramifications of passing this bill
- Women could obtain the Emergency Contraceptive easily within the 72 hour time frame through pharmacies

Sincerely,
Melanie Kelly, MD

February 12, 2009

EMAIL TO: JUDtestimony@capitol.hawaii.gov.

TO: The Committee on Judiciary
HEARING DATE: Thursday, February 12, 2009
HEARING TIME: 2:20 pm
HEARING PLACE: Conference Room 325
State Capitol
415 South Beretania Street

MEASURE NUMBER: HB423 HD1 -RELATING TO EMERGENCY
CONTRACEPTIVES FOR SEXUAL ASSAULT SURVIVORS.

NO. OF COPIES: 3

The Honorable Representative Jon Riki Karamatsu
Chairman, Committee on Judiciary
Hawaii State Capitol, Room 325
415 South Beretania Street
Honolulu, Hawai'i 96813

Re: Testimony in Support of HB 423 HD1

Rep. Jon Riki Karamatsu, Chair, Rep. Ken Ito, Vice Chair, and Honorable Members of the
Committee of Judiciary,

As Medical Director of the Emergency Department of Hawaii Medical Center East, I am writing
in support of the amended Emergency Contraceptive Bill which includes language which
exempts medical centers with religious obligations.

I currently provide care for a limited number of patients who have experienced sexual assault,
and in my practice, the sexual abuse team at Kapiolani Medical Center for Women and Children
has provided assistance to every one. I am aware of the recommendations to treat for sexually
transmitted diseases as well as unplanned pregnancy in these cases and have been appreciative of
the assistance the sexual abuse crisis team at Kapiolani provides.

I am not opposed to arranging for the appropriate care, but do not think physicians or other
providers should be mandated by law to provide services that they be morally opposed to when
other options are available. Other states have passed measures that allow for the exclusion of
facilities that have objections on moral grounds and I ask the State of Hawaii make a similar
exception.

Respectfully submitted,
Valorie Ammann, MD, FACEP
Medical Director Emergency Department
Hawaii Medical Center East

VIA EMAIL: JUDtestimony@capitol.hawaii.gov

Committee: Committee on Judiciary
Hearing Date/Time: Friday, February 13, 2009, 2:20 p.m.
Place: State Capitol, Conference Room 325
Re: *Testimony of Barbara Franklin in support of H.B. 423 as originally drafted, Relating to Emergency Contraceptives for Sexual Assault Survivors*

Dear Chair Karamatsu and Members of the Committee on Judiciary:

I oppose the amendments in H.B. 423, H.D. 1; however, I do support H.B. 423, as originally drafted, which seeks to require hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested.

Hawaii has a compelling state interest in making sure that all rape victims are treated with compassion and receive the nationally recognized standard of care. Hawaii also has a compelling state interest in making sure that all rape victims have timely access to emergency contraception should the victim wish to receive that medication.

I respectfully disagree with those hospitals that claim that H.B. 423 must include a provision allowing an institution to refuse to provide emergency contraception for religious reasons. A religiously affiliated hospital is operating for the general public and its refusal to provide access to this kind of emergency medical care directly and adversely impacts patients of diverse backgrounds and faiths. The refusal impacts victims who do not even get a choice as to which hospital they are taken to for immediate medical care.

Rape is a crime of violence. As a victim, I know all too well that a rape victim suffering multiple injuries requires immediate care and is not in a condition to be transported to another hospital. The proposed amendment allowing for the transport of a victim is an unreasonable and medically unsound accommodation because it would create hours of delay in providing the full range of treatment to a victim

Thank you for this opportunity to testify and for your attention to this matter. I hope that you will do your utmost to improve the quality of care for survivors of sexual assault in Hawaii.

Sincerely,
Barbara L. Franklin, Esq.
Member, Board of Directors, ACLU of Hawaii
Member, Legislative Committee, ACLU of Hawaii
Member, YWCA Hamakua Youth Center Advisory Board
Honokaa, HI 96727

karamatsu3-Leanne

From: Teri Heede [heedet001@hawaii.rr.com]
Sent: Thursday, February 12, 2009 6:42 PM
To: JUDtestimony
Subject: TESTIMONY RE: HB423 HD1 Relating to Emergency Contraceptives for Sexual Assault Survivors

Friday, February 13, 2009

2:20pm

Hawaii State Capitol, Conference Room 325

House Committee on Judiciary
Rep. Jon Riki Karamatsu, Chair
Rep. Ken Ito, Vice Chair

HB423 HD1 Relating to Emergency Contraceptives for Sexual Assault Survivors.

Requires hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested.

Theresa (Teri) Heede
Democratic Party Region 8 Chair (Districts 40, 44, 45), SD 19

Aloha,

I am among many other things a daughter, step daughter, daughter-in-law, mother, grandmother, step mother, hanai mother, aunty, cousin and sister. I had to ask myself what I would expect for any female who visited a hospital Emergency Room after a sexual assault. Without a doubt anyone would expect themselves or loved ones be treated with the highest standards of technology wielded by dedicated, well trained personnel using the best medical practices available to mankind. That is at the crux of this bill. We must ensure that there is a specific legal requirement for hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested.

All women have the right to protect their body from unwanted potential conception. We have the right to be treated with medications that would prevent ovulation, sperm capacitation, or fertilization. All women have the right to treatments that have as their purpose or direct effect the removal, destruction, or interference with the **implantation** of a fertilized ovum.

At least 5 million times this year, an American women will need emergency contraception (EC), a hormonal contraceptive that reduces the chance of pregnancy if taken up to 72 hours after unprotected intercourse. If taken within 72 hours of unprotected intercourse, EC is 75 percent effective in preventing pregnancy.

Let's work together to guarantee that regardless of race, creed, color, social status or religion, all hospitals provide information about emergency contraception to women who are sexually assaulted or need to be provided emergency contraception upon request.

Thank you for this opportunity to comment on such an important issue.

VIA EMAIL: JUDtestimony@capitol.hawaii.gov

Committee: Committee on Judiciary
Hearing Date/Time: Friday, February 13, 2009, 2:20 p.m.
Place: State Capitol, Conference Room 325
Re: *Testimony of Esther Solomon in support of H.B. 423 as originally drafted,
Relating to Emergency Contraceptives for Sexual Assault Survivors*

Dear Chair Karamatsu and Members of the Committee on Judiciary:

I write in support of H.B. 423, as originally drafted, which seeks to require hospitals to provide information about emergency contraception to women who are sexually assaulted and to provide emergency contraception when requested. However, I oppose the amendments in H.B. 423, H.D. 1.

Hawaii has a compelling state interest in making sure that all rape victims are treated with compassion and receive the nationally recognized standard of care. Hawaii also has a compelling state interest in making sure that all rape victims have timely access to emergency contraception should the victim want to take that medication.

I respectfully disagree with those hospitals that claim that H.B. 423 must include a provision allowing an institution to refuse to provide emergency contraception for religious reasons. When it comes to emergency contraception for rape victims, the primary question for Hawaii should be whether an institution's refusal burdens victims who do not share and should not share the burden of the refusal to provide emergency contraception. A religiously affiliated hospital is operating for the general public and its refusal to provide access to this kind of emergency medical care directly and adversely impacts on patients of diverse backgrounds and faiths. The refusal impacts on victims who do not even get a choice as to which hospital they are taken to for immediate medical care.

The proposed amendment allowing for the transport of a victim is an unreasonable and medically unsound accommodation because it would allow for hours of delay in providing the full range of treatment to a victim

Rape is a crime of violence. All too often a rape victim suffers multiple injuries that require immediate care and she is not in a condition to be transported to another hospital.

Thank you for this opportunity to testify and for your attention to this matter. I hope that you will do your utmost to improve the quality of care for survivors of sexual assault in Hawaii.

Sincerely,
Esther Solomon
ACLU Legislative Committee
Kapaa, Hawaii 96746