

February 4, 2011

Health Committee, Room 329

## LATE TESTIMONY

Re: HB 127

Dear Committee Members,

I testify in **STRONG OPPOSITION TO HB 127**. The intent of HB127 is “to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception,” however, without a full record on the drug’s safety for women or their unborn children, “emergency contraceptives” demonstrate the need for further understanding of the new medical and moral issues it presents.

During my graduate studies in counseling I’ve learned much about the traumatic effects of a rape and other types of physical and emotional abuse and trauma on the human person. I have also studied the after-effects of abortion on women, and serve as the director and facilitator of Rachel’s Vineyard Ministries in Hawaii, weekend retreats for healing after abortion. My colleagues and I have learned a good deal about the emotional and spiritual pain of abortion. However, the widespread practice of contraception presents another surfacing tide of unspoken and completely unrecognized grief.

HB127 does not take into account the concerns that have been raised over drugs considered for “emergency contraception,” such as the “Plan B” regimen, which acts to not only prevent ovulation, but also to **prevent implantation of the developing embryo in his or her mother’s womb. Ulipristal (trade name: Ella) is a close analogue to the abortion drug RU-486, with the same biological effect – that is, it can disrupt an established pregnancy weeks after conception has taken place.**

Although pharmaceutical giant and **ella** manufacturer, HRA Pharma, proclaims that **ella** is a contraceptive drug which prevents unwanted pregnancy, the science behind the drug actually proves that **ella** is much more powerful than a mere contraceptive and can actually end the life a living human embryo.

There are 2 main mechanisms in how ella works:

1st: **ella** blocks progesterone receptors in 3 areas:

1. Progesterone is blocked at the level of endometrial glands (glands located in the uterus) and destroys the receptivity of the endometrium (inner uterine lining) prohibiting the human embryo from implanting.
2. Destroys the corpus luteum granulose cells to produce progesterone. (The corpus luteum supports the human embryo which is implanted into the mother’s uterine wall for the first 10 weeks of pregnancy.)
3. Progesterone receptors are blocked in the endometrial stromal tissue, destroying the maternal component of the placenta.

The last 2 progesterone blocking actions with **ella** are identical to those of the RU-486 pill, which is commonly referred to as the “abortion pill.”

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2nd: The above mentioned progesterone receptor blockades directly interfere with the hormone action of progesterone to prepare the endometrium for implantation of the human embryo. (As soon as conception occurs, when the male sperm meets the female egg, the mother's hormones are instantly released causing hormonal changes in the woman's uterus.)

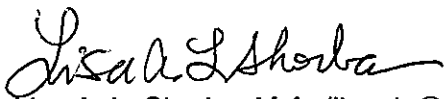
This drug is contraindicated for women who are or may be pregnant. Yet its proposed use here is targeted precisely at women who may already have conceived, as it would be administered within five days *after* "unprotected" sex or contraceptive failure. No existing pregnancy test can exclude the possibility that a new life has been conceived in this time frame. Indeed, advocates praise this drug as an advance precisely because it seems to retain its full efficacy five days after intercourse – that is, after the opportunity to prevent fertilization has passed.

**Fact:** The FDA looked at limited data on safety information and should conduct further studies on the effect of Ella on women's health. In addition to the studies looked at for approval, since Ella works similarly to RU-486, there is compelling reason to believe that it will likely have similar side effects. It may cause excessive bleeding and increase vulnerability to infection. The FDA had admitted that six women died as a result to RU-486 within six years of its approval. It is possible that other serious side effects of RU-486 have occurred but not been reported. Women who take Ella should be aware of its potential side effects.

**Fact:** The FDA admits at least one case where a baby exposed to *ella* in utero had visual development problems and delayed gross motor skills. Despite this information, the FDA Advisory Panel did not suggest further studies on the potential for *ella* to produce birth defects, either for babies in utero or those drinking their mother's breast-milk. Additionally, the EMEA stated that "Extremely limited data are available on the health of the fetus/newborn in case a pregnancy is exposed" to the drug, as well as "it has not been possible to evaluate the teratogenic (birth-defect) potential of Ulipristal acetate (*ella*)."

Any woman who has been raped is already traumatized and experiencing symptoms of post-traumatic stress disorder. Women need and deserve to be educated about the drugs being administered in the context in which I am presenting here. They also need to know the consequences (emotional, psychological pain and grief) of an abortion through the use of emergency contraceptive drugs. This bill does not address these issues. Please DO NOT PASS HB127. Thank you very much for the opportunity to testify on this important measure.

Sincerely,



Lisa A. L. Shorba, M.A. ([lisaals@hotmail.com](mailto:lisaals@hotmail.com))

**LATE TESTIMONY**

**LATE TESTIMONY**

February 4, 2011

**TO:** House Committee on Health

Rep. Ryan Yamane, Chair  
Rep. Dee Morikawa, Vice Chair

**FROM:** Gary H. Okino

**RE:** Opposition to HB 127 Relating to Healthcare

I am opposed to this measure because government should never force religious institutions to act contrary to their religious belief... their moral conscience. Requiring Catholic hospitals to provide contraceptives in rape cases may result in an early abortion. This conflicts with their religious and ethical duty to do no harm to human life, which in this case is the fetus that may have been conceived during the rape.

This is in no way contrary to my extreme concern for the compassionate care of rape victims. The Hawaii Medical Centers should continue to provide the full range of care and services they are now providing to help the victim to cope with the trauma of the sexual assault.

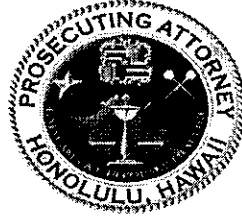
I respectfully suggest the legislature can achieve its purposes and balance religious liberty, tolerance and diversity of opinion by granting a religious exemption.

Thank you for considering my opposition to the proposed HB 127.

**LATE TESTIMONY**

DEPARTMENT OF THE PROSECUTING ATTORNEY  
**CITY AND COUNTY OF HONOLULU**

ALII PLACE  
1060 RICHARDS STREET • HONOLULU, HAWAII 96813  
PHONE: (808) 768-7400 • FAX: (808) 768-7515



Keith M. Kaneshiro  
PROSECUTING ATTORNEY

Armina A. Ching  
FIRST DEPUTY  
PROSECUTING ATTORNEY

THE HONORABLE RYAN I. YAMANE, CHAIR  
THE HONORABLE DEE MORIKAWA, VICE CHAIR  
HOUSE COMMITTEE ON HEALTH  
Twenty-sixth State Legislature  
Regular Session of 2011  
State of Hawai'i

February 3, 2011

RE: H.B. 127; RELATING TO HEALTHCARE.

Chair Yamane, Vice Chair Morikawa, and members of the House Committee on Health, the Department of the Prosecuting Attorney submits the following testimony in support of H.B. 127, which requires that hospitals provide sexual assault survivors with medically and factually accurate and unbiased information regarding emergency contraception.

The purpose of S.B. 218 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.”*

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While the language of this bill provides new mandates for hospitals in Hawaii, these requirements 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. Although sexual assault is clearly one of the most traumatic crimes that target Hawaii's women, the fear of an unwanted pregnancy and the potentially damaging medical and psychological effects that accompany it can exponentially increase the level of harm that it inflicts upon its 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 them is predicated on the availability of information that is accurate, thorough, and unbiased. We must assure that all victims of sexual assault in Hawaii have equal access to factual information that can facilitate the making of choices that may affect the victim for a lifetime. To do less deprives victims of the opportunity for self determination that must be available to insure their ability to transition from victim to survivor. The passage of H.B. 127 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, we strongly urge that you support H.B. 127. Thank you for your time and consideration.



# LATE TESTIMONY

## **COMMITTEE ON HEALTH**

**Representative Ryan Yamane, Chair**  
**Representative Dee Morikawa, Vice Chair**

**DATE: Friday February 4, 2011**  
**TIME: 9:00 a.m.**  
**PLACE: Conference Room 329**  
**State Capitol**  
**415 South Beretania Street**

### **STRONG OPPOSITION TO HB 127 – Relating to Healthcare**

The St Francis Healthcare System is Hawaii's only Catholic healthcare system. We are sponsored by the Sisters of St. Francis of the Newmann Communities of Syracuse, New York and are the legacy of the Sisters' commitment to the people of Hawaii for the past 127 years, beginning with Mother Marianne Cope and her courageous ministry in Kalaupapa.

The contributions of the Sisters of St Francis to this state are incredible. From hospital development, dialysis and transplant services to home care, hospice and palliative care, St Francis and its many community partners and supporters have shaped the landscape of healthcare in Hawaii. Always with compassion and concern for the underprivileged, St Francis has treated those in their care as "whole" people, keeping in mind their physical, emotional and spiritual needs.

The St Francis Healthcare System of Hawaii does not own nor operate any emergency service providers or hospitals. It does, however own the land currently leased to Hawaii Medical Centers East and West and under contractual obligation, HMC must abide by the Ethical and Religious Directives of the Catholic Church. These directives include respect for life from time of conception to natural death.

The Sisters of St Francis, women of great courage and strength, are encouraged by many aspects of this proposed legislation. All healthcare providers should provide medically and factually accurate and unbiased information for all patients of any diagnosis, particularly victims of assault. The Sisters have fought to present open discussion of treatment options, ever respectful of the beliefs of others. It is admirable to seek improvements in the care of sexual assault victims

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and St Francis applauds those efforts and that of our legislature to ensure proper care.

While recognizing the vulnerability of the patient, we simply ask that hospitals not be mandated to provide specific medications, especially if providing it is a direct violation of their ethical directives. We respectfully point out the vast difference between providing unbiased information and treatment options and actually dispensing and providing a drug that may interfere with the implantation of an already fertilized egg. For Catholics, this constitutes abortion. Although abortions may be legal to perform in this state, we certainly do not mandate that all healthcare providers perform them.

The St Francis Healthcare System is confident that this committee can appreciate that religious freedom is what is at stake here and that there must be a way that the needs of patients and providers can be met. Standardizing the information given and ensuring access to care are issues we can support. Do not ask us to violate a core ethical directive in the name of quality health care.

The St Francis Healthcare System appreciates the opportunity to share our thoughts and thanks you for your dedication to improving health care in Hawaii.

Respectfully,

Joy Yadao, RN  
Director of Advocacy  
St Francis Healthcare System of Hawaii  
808.547.8156  
jyadao@stfrancishawaii.org

# LATE TESTIMONY



HOUSE COMMITTEE ON HEALTH  
Rep. Ryan Yamane, Chair

Conference Room 329  
Feb. 4, 2011 at 9:00 a.m.

## **Commenting on HB 127.**

The Healthcare Association of Hawaii advocates for its member organizations that span the entire spectrum of health care, including all acute care hospitals, as well as long term care facilities, home care agencies, and hospices. Thank you for this opportunity to comment on HB 127, which mandates hospital emergency departments to provide emergency contraception to victims of sexual violence.

The Healthcare Association develops its positions on issues based upon the consensus of its members, and there was no consensus on this particular issue. However, healthcare providers agree that it is not advisable to mandate medical protocols in a clinical setting, especially an Emergency Department.

Thank you for this opportunity to comment on HB 127.



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 9:24 PM  
**To:** HLTtestimony  
**Cc:** karend@hrtl.org  
**Subject:** Testimony for HB127 on 2/4/2011 9:00:00 AM

## **LATE TESTIMONY**

Testimony for HLT 2/4/2011 9:00:00 AM HB127

Conference room: 329  
Testifier position: oppose  
Testifier will be present: Yes  
Submitted by: Karen DiCostanzo  
Organization: Hawaii Right to Life  
Address: 81 S Hotel St, Ste 200-B Honolulu, HI  
Phone: 808-585-8205  
E-mail: [karend@hrtl.org](mailto:karend@hrtl.org)  
Submitted on: 2/3/2011

### **Comments:**

On behalf of Hawaii Right to Life and thousands of its members statewide, we OPPOSE HB 127. There are some troubling issues within this bill.

1. Side effects. Victims of rape and intimate partner violence need compassionate care, however, emergency contraception could actually harm the very women it is intended to help by causing such side effects as nausea, vomiting, headaches, breast tenderness, dizziness, fluid retention, abdominal pain, bleeding, ovarian pain, ovarian cysts, and increased risk of ectopic pregnancy.

2. Abortafacient action. Emergency contraception can result in early abortion. The bill does not specifically require that patients be informed of these risks. We believe that women deserve better.

3. Conscience clause. This bill fails to provide healthcare provider rights of conscience protection for those who cannot in good conscience provide patients with drugs that could result in abortion.

4. Information sources. Who determines the source of the "medically and factually accurate and unbiased written and oral information about emergency contraception" required by the bill? Even within the medical community, there are differences of opinion regarding the safety and appropriate use of emergency contraception.

We have firsthand testimony from a number of rape victims who have become pregnant and have chosen life for their children. These women have reported that the births of their children were the only positive outcomes of their trauma, contributing to their psychological recoveries.

Providing information to women that allows them to make truly informed decisions should include information like this, along with a directory of agencies prepared to assist women who choose life in the event of a resulting pregnancy. Hawaii Right to Life and a network of pro-life support organizations stand by ready to help women in their time of need.

Pamela Lichty, MPH  
Member, ACLU Legislative Committee  
Honolulu, H 96816  
808 224-3056  
[pamelalichty@gmail.com](mailto:pamelalichty@gmail.com)

**LATE TESTIMONY**

TO: House Committee on Health  
RE: HB 127 Re Compassionate Care for Sexual Assault Victims  
Date: Friday February 4, 2011, 9:00 am, room 329

Aloha Representative Yamane and members of the Committee. As a long time public health advocate for women's health in Hawai'i, and as a member of ACLU of Hawaii's Legislative Committee, I strongly support HB 127.

As you will have heard, this issue of providing emergency contraception information and access to sexual assault survivors in emergency rooms has a long controversial history in Hawai'i. This despite the data about the number of sexual assaults, the trauma suffered by hundreds of women, and the additional fears and concerns about unwanted pregnancy in the wake of those assaults.

This bill before you today represents a consensus measure shaped by all the different stakeholders in the community.

I urge you to pass it out with a strong recommendation. Thank you for the opportunity to testify today.



**LATE TESTIMONY**

Committee: Committee on Health  
Hearing Date/Time: Friday, February 4, 2011, 9:00 a.m.  
Place: Conference Room 329  
Re: Testimony of the ACLU of Hawaii in Support of H.B. 127

Dear Chair Yamane and Members of the Committee on Health:

The American Civil Liberties Union of Hawaii ("ACLU of Hawaii") writes in support of H.B. 127, which requires hospitals to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception.

By expanding access to a critical, yet underutilized, means of pregnancy prevention, this bill would help ensure that Hawaii women enjoy comprehensive reproductive health rights at a time when they are under relentless attack at the federal level.

Emergency contraception is often misunderstood and underutilized. Emergency contraceptive pills are really just high doses of oral contraceptives, the birth control pills that millions of U.S. women take every day. EC has been proven highly effective in preventing unintended pregnancy when taken no more than 72 hours after unprotected intercourse; it is most effective when taken within 12 hours. EC works by preventing ovulation, fertilization, or implantation. It does not disrupt an established pregnancy, which the medical community defines as beginning with implantation. EC should not be confused with mifepristone (RU-486), a drug approved by the Food and Drug Administration in September 2000 for early abortion. EC prevents unwanted pregnancy. It does not induce an abortion.

Despite the tremendous potential of EC to drastically reduce unintended pregnancy, it is not nearly as available nor as widely known as it should be. The bill you consider today would dramatically expand access to EC and provide a crucial boost to reproductive freedom and women's health.

H.B. 127 would vastly expand access to emergency contraception for women in Hawaii, with the potential to bring about a dramatic decrease in unintended pregnancies. We know that time is of the essence in ensuring the effectiveness of EC. This problem is exacerbated in rural areas of Hawaii with fewer medical resources.

Research suggests that widespread fast access to EC would prevent nearly half of the unintended pregnancies in the United States, a number estimated to be as high as 2.5 million each year. Given the unacceptably high rates of unintended pregnancy, expanded access to EC is certainly an urgent public health priority.

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](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

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Chair Yamane and Members of the Committee on  
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February 4, 2011  
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H.B. 127 would mandate that emergency rooms counsel rape survivors concerning the availability of EC and, upon her request, provide EC on-site. Perhaps nowhere is access to EC more urgently needed than in emergency rooms treating survivors of rape. Each year, more than 600,000 American women are raped, with an estimated 25,000 of those rapes resulting in pregnancy. As many as 22,000 of those pregnancies could be prevented by timely administration of emergency contraception.

The major medical organizations agree: rape survivors should be counseled about and offered EC. The American College of Obstetricians and Gynecologists (ACOG) recommends that physicians treating rape survivors, as part of their overall sexual assault exam, administer pregnancy tests and offer the patient EC. Likewise, in their guidelines for treating sexual assault survivors, the American Medical Association advises physicians to ensure that sexual assault patients are informed about and, if appropriate, provided EC. Quite simply, providing EC as part of sexual assault treatment is the standard of care.

Yet, despite this consensus, many hospitals fail to provide rape survivors with EC and some fail even to inform women about the available treatment.

A woman who has just survived rape is already in crisis and should not have to track down EC on her own, after she has undergone a rape exam in an emergency room. In addition to the emotional burdens of having to seek this medical care elsewhere, the rape survivor would face increased risk of pregnancy because of the delay inherent in having to find a pharmacist to dispense EC. By the time a woman arrives at an emergency room, hours may have already elapsed since the rape took place. In the time remaining before the 72-hour window expires, obtaining EC may be virtually impossible. Moreover, as the hours tick by, her chances of preventing pregnancy decrease.

Some health care institutions, invoking religious objections, refuse to provide EC because it may interfere with the implantation of a fertilized egg. The ACLU of Hawaii is a staunch defender of religious liberty; however, we believe that an institution's religious objections to EC must not imperil a rape survivor's access to timely and comprehensive treatment. Emergency rooms - 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.

A rape survivor is often taken to a hospital by the police or emergency medical technicians. Under these conditions, most women lack the time, information, and opportunity to assess a given hospital's EC policy and ask to be taken to a facility that provides EC. Nor should she be

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

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Chair Yamane and Members of the Committee on  
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expected to do so after surviving such a brutal crime. EC is basic health care for rape survivors and religious objections cannot be allowed to stand against the urgent needs of a rape survivor. Moreover, hospitals 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 their care.

In short, a hospital's failure to provide EC unacceptably leaves women at risk for becoming pregnant as a result of the assault. This bill would ensure that hospitals abide by the standard of care when treating rape survivors. For all these reasons, the ACLU of Hawaii urges support for H.B. 127.

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 45 years.

Thank you for this opportunity to testify.

Sincerely,  
Laurie Temple  
Staff Attorney  
ACLU of Hawaii

American Civil Liberties Union of Hawaii  
P.O. Box 3410  
Honolulu, Hawaii 96801  
T: 808.522-5900  
F: 808.522-5909  
E: [office@acluhawaii.org](mailto:office@acluhawaii.org)  
[www.acluhawaii.org](http://www.acluhawaii.org)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 4:45 PM  
**To:** HLTtestimony  
**Cc:** Linsihuseman@hotmail.com  
**Subject:** Testimony for HB127 on 2/4/2011 9:00:00 AM

## **LATE TESTIMONY**

Testimony for HLT 2/4/2011 9:00:00 AM HB127

Conference room: 329  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Linsi Helenius  
Organization: Individual  
Address:  
Phone:  
E-mail: [Linsihuseman@hotmail.com](mailto:Linsihuseman@hotmail.com)  
Submitted on: 2/3/2011

### **Comments:**

Dear Committee Members:

As hard as rape and sexual assault is, I have to oppose this measure with the facts that EC can potentially harm the patient instead of help. It has been documented that, nausea, dizziness, vomiting, and even possible abortions can take place when this drug is taken. The EC is two times the dose of the regular birth control pill and is a harsh chemical on a women's body. There are very real life threatening risks such as ectopic pregnancy. Some forms of the EC carry the hormone estrogen and carry the potential risks of blood clots, strokes and heart attacks.

Please help us offer these hurting women hope through compassionate loving quality care.

Thank you for reading my testimony.

Linsi Helenius

# LATE TESTIMONY

**ATTN: COMMITTEE ON HEALTH**  
**Rep. Ryan I. Yamane, Chair**  
**Rep. Dee Morikawa, Vice Chair**  
**Members**

DATE: Friday, February 04, 2011  
TIME: 9 A.M.  
PLACE: Conference Room 329

HB 127 - RELATING TO HEALTHCARE - requiring emergency rooms to provide all sexual assault survivors, who seek care, information about emergency contraceptives and to administer emergency contraceptives if a victim chooses.

## **STRONG SUPPORT**

Aloha Chair Yamane, Vice Chair Morikawa and members of the Health Committee:

I am in strong support of HB 127.

I can quote you sad facts about rape in this country and in our blessed State of Hawai'i. When the victims of this horrible crime survive and go to one of Hawaii's emergency rooms, they need not only care but information about emergency contraception and when necessary to have it administered.

I was appalled to learn that in Hawai'i, our emergency rooms are not offering emergency contraception consistently to rape victims. How can this be possible? The American Medical Association 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.

It is my understanding that since 2009 a group of stakeholders on this issue, both advocates and opponents, have met several times. The language of HB 127 is a result of those discussions. I urge you to pass this bill out of committee.

Rape victims have waited far too long for compassion in the Emergency Rooms of our hospitals.

Mahalo for your time!

Teri Heede  
92-994 Kanehoa Loop  
Kapolei, HI 96707

**From:** Gwen Ilaban [gfilaban@aol.com]  
**Sent:** Thursday, February 03, 2011 6:57 PM  
**To:** HLTtestimony  
**Subject:** Support HB 127

HB 127

Friday February 4, 2011 at 9:00 am

House Committee on Health, Room 329

Chairman Yamane and Committee Members:

Please pass HB 127.

HB 127 requires that emergency rooms provide all sexual assault survivors who seek care information about emergency contraceptives and administer emergency contraceptives if a victim chooses.

However, in Hawaii, sexual assault victims do not always have access to emergency contraception when they visit local emergency rooms. Statewide surveys of Hawaii's emergency rooms have revealed that many facilities lack any clear policy on emergency contraception (EC).

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 passage of this bill will ensure that Hawaii's most vulnerable patients have access to quality, compassionate care after a sexual assault, no matter which emergency room they arrive in.

Mahalo for your consideration.

Gwen Ilaban

76-6182 Alii Drive

Kailua-Kona, HI 96740

1 February 2011



**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Thursday, February 03, 2011 5:53 PM  
**To:** HLTtestimony  
**Cc:** toddhairgrove@yahoo.com  
**Subject:** Testimony for HB127 on 2/4/2011 9:00:00 AM

## **LATE TESTIMONY**

Testimony for HLT 2/4/2011 9:00:00 AM HB127

Conference room: 329  
Testifier position: oppose  
Testifier will be present: No  
Submitted by: Todd Hairgrove  
Organization: Individual  
Address:  
Phone:  
E-mail: [toddhairgrove@yahoo.com](mailto:toddhairgrove@yahoo.com)  
Submitted on: 2/3/2011

Comments:

**LATE TESTIMONY**

Shawn A. Luiz  
Attorney at Law  
1132 Bishop Street  
Suite 1520  
Honolulu, Hawaii 96813  
Tel. (808) 538-0500 Fax (808) 538-0600 E-mail: attorneyluiz@msn.com

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February 3, 2011

Via Facsimile to House Sergeant-At-Arms Fax (808)586-6501

Health Committee on  
HB 127  
Relating To Healthcare  
Friday, February 4, 2011  
9:00 a.m.  
House Conference Room 329

I believe the Hawaii State Legislature should be made aware of the following prior to voting on this issue as HB 127 requires hospitals to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception.

HB 127 would conflict with federal law. Any State law that conflicts with federal law is preempted under Article III to the United States' Constitution. See 45 CFR Part 88.1, 88.3 and 88.4:

**§ 88.1 Purpose.**

The purpose of this Part is to provide for the implementation and enforcement of the Church Amendments, 42 U.S.C. 300a-7, section 245 of the Public Health Service Act, 42 U.S.C. 238n, and the Weldon Amendment, Consolidated Appropriations Act, 2008, Public Law 110-161, Div. G, §508(d), 121 Stat. 1844, 2209 (collectively referred to as the federal healthcare conscience protection statutes). These statutory provisions protect the rights of health care entities/entities, both individuals and institutions, to refuse to perform health care services and research activities to which they may object for religious, moral, ethical, or other reasons. Consistent with this objective to protect the conscience rights of health care entities/entities, the provisions in the Church Amendments, section 245 of the Public Health Service Act and the Weldon Amendment,

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and the implementing regulations contained in this Part are to be interpreted and implemented broadly to effectuate their protective purposes.

### **88.3 Applicability.**

- (a) The Department of Health and Human Services is required to comply with sections §§88.4(a), (b)(1), and (d)(1) of this part.
- (b) Any State or local government that receives federal funds appropriated through the appropriations act for the Department of Health and Human Services is required to comply with §§88.4(b)(1) and 88.5 of this part.
- (c) Any entity that receives federal funds appropriated through the appropriations act for the Department of Health and Human Services to implement any part of any federal program is required to comply with §§88.4(b)(2) and 88.5 of this part.
- (d) Any State or local government that receives federal financial assistance is required to comply with §§88.4(a) and 88.5 of this part.
- (e) Any State or local government, any part of any State or local government, or any other public entity must comply with §88.4(e) of this part.
- (f)(1) Any entity, including a State or local government, that receives a 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, must comply with §§88.4(c)(1) and 88.5 of this part.
- (2) In addition to complying with the provisions set forth in §88.4(c)(1) of this part, any such entity that is an educational institution, teaching hospital, or program for the training of health care professionals or health care workers shall also comply with §88.4(c)(2) of this part.

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**LATE TESTIMONY**

(g)(1) Any entity, including a State or local government, that carries out any part of any health service program or research activity funded in whole or in part under a program administered by the Secretary of Health and Human Services must comply with §§88.4(d)(1) and 88.5 of this part.

(2) In addition to complying with the provisions set forth in (g)(1) of this section, any such entity that receives grants or contracts for biomedical or behavioral research under any program administered by the Secretary of Health and Human Services shall also comply with §§88.4(d)(2) of this part.

**§ 88.4 Requirements and prohibitions.**

(a) Entities to whom this paragraph (a) applies shall not:

(1) Subject any institutional or individual health care entity to discrimination for refusing:

(i) To undergo training in the performance of abortions, or to require, provide, refer for, or make arrangements for training in the performance of abortions;

(ii) To perform, refer for, or make other arrangements for, abortions; or

(iii) To refer for abortions;

(2) Subject any institutional or individual health care entity to discrimination for attending or having attended a post-graduate physician training program, or any other program of training in the health professions, that does not or did not require attendees to perform induced abortions or require, provide, or refer for training in the performance of induced abortions, or make arrangements for the provision of such training;

(3) For the purposes of granting a legal status to a health care entity (including a license or certificate), or providing such entity with financial assistance, services or benefits, fail

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to deem accredited any postgraduate physician training program that would be accredited but for the accrediting agency's reliance upon an accreditation standard or standards that require an entity to perform an induced abortion or require, provide, or refer for training in the performance of induced abortions, or make arrangements for such training, regardless of whether such standard provides exceptions or exemptions;

(b)(1) Any entity to whom this paragraph (b)(1) applies shall not subject any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for, abortion.

(2) Entities to whom this paragraph (b)(2) applies shall not subject any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortion, as part of the federal program for which it receives funding.

(c) Entities to whom this paragraph (c) applies shall not:

(1) Discriminate against any physician or other health care professional in the employment, promotion, termination, or extension of staff or other privileges because he performed or assisted in the performance, or refused to perform or assist in the performance of a lawful sterilization procedure or abortion on the grounds that doing so would be contrary to his religious beliefs or moral convictions, or because of his religious beliefs or moral convictions concerning abortions or sterilization procedures themselves;

(2) Discriminate against or deny admission to any applicant for training or study because of reluctance or willingness to counsel, suggest, recommend, assist, or in any way participate in the performance of abortions or sterilizations contrary to or consistent with the applicant's religious beliefs or moral convictions.

(d) Entities to whom this paragraph (d) applies shall not:

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(1) Require any individual to perform or assist in the performance of any part of a health service program or research activity funded by the Department if such service or activity would be contrary to his religious beliefs or moral convictions.

(2) Discriminate in the employment, promotion, termination, or the extension of staff or other privileges to any physician or other health care personnel because he performed, assisted in the performance, refused to perform, or refused to assist in the performance of any lawful health service or research activity on the grounds that his performance or assistance in performance of such service or activity would be contrary to his religious beliefs or moral convictions, or because of the religious beliefs or moral convictions concerning such activity themselves.

(e) Entities to whom this paragraph (e) applies shall not, on the basis that the individual or entity has received a 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, 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

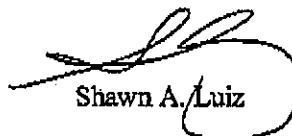
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such procedure or abortion by such personnel would be contrary to the religious beliefs or moral convictions of such personnel.

Federal law prohibits recipients of federal funds from coercing anyone to perform or assist in abortions in violation of their religious or moral convictions. HB127 should be tabled.

Very Truly Yours,



Shawn A. Luiz

# LATE TESTIMONY

Honorable Chair Yamane, Representatives of the Committee on Health,

**I SUPPORT HB 127: COMPASSIONATE CARE** that requires hospitals to provide survivors of sexual assault with medically and factually accurate and unbiased information regarding emergency contraception.

Please consider the following **amendments**:

**1. Mandate medical workers opting out of emergency contraceptive direct victims of sexual assault to a legitimate, safe place where they can receive these services.** Letting medical workers opt out of administering emergency contraception is right, but they need to direct victims to professionals that can adequately address their needs.

**2. Include Pharmacists & Pharmacy Workers** in this law. Often sexual assault victims will be disoriented and may seek help under the radar from these locations. Please don't allow these victims to slip through the cracks.

**3. Make the fine \$10,000.** Please make sure that hospitals take this seriously. \$1,000 is not enough of a deterrent or reprimand for lying/withholding evidence from a victim of sexual assault. (Page 6, Line 4)

Please pass this bill. The scars of rape take years to overcome. The last thing a survivor needs is an unwanted pregnancy. Give them the choice that their attacker took away from them. We need you to look out for us.

Dorothy Mulkern



Melissa Pavlicek  
c/o 841 Bishop Street, Suite 2100  
Honolulu, Hawaii 96813

**LATE TESTIMONY**

Re: Testimony in support of HB 127

Chair Yamane and members of the House Health Committee, my name is Melissa Pavlicek. I am an attorney, a small business owner, a former president of Hawaii Women Lawyers and a parent. Advocating for the rights of women, children and families is extremely important to me personally and I recognize and appreciate the work of the legislature to address concerns members of the community such as myself have raised about access to emergency contraceptives and information about emergency contraceptives. Sexual assault is a devastating and life threatening crime. Please support HB 127 which requires that emergency rooms provide all sexual assault survivors who seek care information about emergency contraceptives and administer emergency contraceptives if a victim chooses.