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GOVERNOR  
  
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**STATE OF HAWAII**  
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**DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS**  
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CATHERINE P. AWAKUNI COLÓN  
DIRECTOR  
  
JO ANN M. UCHIDA TAKEUCHI  
DEPUTY DIRECTOR

TO THE SENATE COMMITTEE ON JUDICIARY AND LABOR

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2016

Friday, February 26, 2016  
10:00 a.m.

**WRITTEN TESTIMONY ONLY**

**TESTIMONY ON SENATE BILL NO. 2320, S.D. 1 – RELATING TO  
CONTRACEPTIVE SUPPLIES.**

TO THE HONORABLE GILBERT S.C. KEITH-AGARAN, CHAIR, AND MEMBERS OF THE  
COMMITTEE:

My name is Gordon Ito, State Insurance Commissioner, testifying on behalf of  
the Department of Commerce and Consumer Affairs (“Department”). The Department  
submits the following comments.

Adding a new subsection (d) to section 431:10A-116.6 (contraceptive services),  
Hawaii Revised Statutes (“HRS”), applicable to health insurers, and adding a new  
subsection (d) to section 432:1-604.5 (contraceptive services), HRS, applicable to  
mutual benefit societies, would require insurance coverage to include reimbursement to  
a pharmacist who prescribes and dispenses contraceptive supplies. The Department  
supports the intent of this new language because it expands consumer access without  
triggering a new mandate. The Department defers to the Legislature to determine the  
appropriate prescribing health care provider.

The Department takes no position on the proposed expansion under chapter  
87A, HRS, and to Medicaid programs.

We thank this Committee for the opportunity to present testimony on this matter.



February 24, 2016

The Honorable Gilbert S.C. Keith-Agaran, Chair  
The Honorable Maile S.L. Shimabukuro, Vice Chair  
Senate Committee on Judiciary and Labor

**Re: SB 2320 SD1 – Relating to Contraceptive Supplies**

Dear Chair Agaran, Vice-Chair Shimabukuro and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to offer testimony on SB 2320 SD1, which authorizes pharmacists to prescribe and dispense contraceptive supplies to persons eighteen year of age or older.

HMSA supports the intent of SB 2320 SD1 and worked closely with the stakeholders involved to reach consensus on areas of concern that existed in earlier drafts of this bill. HMSA appreciates the intent of SB 2320 SD1 to remove barriers to particular prescription contraceptives for patients and members and looks forward to working with the Committee to address any outstanding concerns that may exist.

Thank you for allowing us to testify on SB 2320 SD1.

Sincerely,

Jennifer Diesman  
Vice President, Government Relations



## HAWAII MEDICAL ASSOCIATION

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### COMMITTEE ON JUDICIARY AND LABOR

Senator Gilbert S.C. Keith-Agaran, Chair

Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Friday, February 26, 2016  
TIME: 10:00 a.m.  
PLACE: Conference Room 016  
State Capitol  
415 South Beretania Street

FROM: Hawaii Section, ACOG  
Dr. Greigh Hirata, MD, FACOG, Chair  
Dr. Jennifer Salcedo, MD, MPH, MPP, FACOG, Vice-Chair  
Lauren Zirbel, Community and Government Relations

### **Re: SB 2320, SD 1 Relating to Contraceptive Supplies**

### **Position: Support**

Dear Senator Keith-Agaran, Senator Shimabukuro, and Committee Members,

The Hawaii Medical Association supports SB2320 and other legislative proposals that promote increased access to contraception.

We stand with Hawaii ACOG's guidelines listed below.

ACOG's recommendations include:

1. Oral contraceptives (OCs) should be sold over the counter (OTC) in drugstores without a doctor's prescription. Easier access to OCs should help lower the nation's high unintended pregnancy rate, a rate that has not changed over the past 20 years and costs taxpayers an estimated \$11.1 billion annually.
2. Cost, access, and convenience issues are common reasons why women do not use contraception or use it inconsistently. There are no OCs currently approved for OTC access; OTC availability will improve women's access to and use of contraception. The benefits of making OCs easily accessible outweigh the risks.
3. Even though no drug is risk-free, the overall consensus is that OCs are safe. There is a risk of blood clots with OC use, but it is extremely low and significantly lower than the risk of blood clots during pregnancy and the postpartum period. Aspirin and acetaminophen are both available OTC even though they have well-known health risks.
4. Studies show women support OTC access to OCs and are able to self-screen with checklists to determine their health risks.

### *Officers*

*President - Robert Sloan, MD, President-Elect – Scott McCaffrey, MD  
Immediate Past President – Walton Shim, MD, Secretary - Thomas Kosasa, MD  
Treasurer – Brandon Lee, MD Executive Director – Christopher Flanders, DO*

Evidence also shows that women will continue seeing their doctors for screening and preventive services even when allowed to purchase OCs without a prescription or doctor's appointment.

For these reasons, **HMA supports SB2320.**

We stand ready to provide you with factual information on medical issues that come before the Legislature, and hope you will contact us at any time.

Over-The-Counter Access to oral contraception. Committee Opinion No. 554. American College of Obstetricians and Gynecologists. Obstet Gynecol 2012;120:1527-31 (reaffirmed 2014).



February 24, 2016

TESTIMONY: Written only

To:           The Honorable Gilbert S. C. Keith-Agaran, Chair  
              The Honorable Maile S. L. Shimabukuro, Vice Chair  
              Members of the Senate Committee on Judiciary and Labor

From:       **Hawaii Public Health Association**

Subject:     **SUPPORT – SB2320 SD1 RELATING TO CONTRACEPTIVE  
              SUPPLIES**

Hearing:    February 26, 2016 at 10:00am at State Capitol Room 016

The Hawaii Public Health Association (HPHA) is an association of over 600 community members, public health professionals, and organizations statewide dedicated to improving public health. HPHA serves as a voice for public health professionals and as a repository for information about public health in the Pacific.

HPHA **supports** the passage of **SB2320 SD1** which authorizes pharmacists to prescribe and dispense contraceptive supplies to persons eighteen years of age or older.

In 2010, 56% of all 16,000 pregnancies in Hawaii were unplanned. The unintended pregnancy rate was reported 61 per 1,000 women ages 15–44. Publicly supported family-planning centers aided 19,800 female contraceptive clients in 2013. These locations met 28% of women’s need for contraceptive services and helped avert 4,800 unintended pregnancies in 2013. This program was projected to have prevented 2,400 unplanned births and 1,600 terminated pregnancies. However,

many women do not seek care for unintended pregnancy, due to scheduling issues, costs of care, or not wanting to go through an embarrassing GYN examination to obtain a doctor's prescription.

Over-The-Counter (OTC) contraceptives would expedite the process for women to receive a fitting birth control method and prevent pregnancy. Birth control methods including oral and injectable forms will still require a prescription, along with a brief patient health-questionnaire, but will be more easily accessible as OTC.

Measures such as board-approved continuing education programs relating to prescribing OTC for pharmacists and providing written documentation, patient consultation, and primary care provider referral to patients will ensure safe access to care. Further, patients will be encouraged to attend annual exams to test for cervical cancer, sexually transmitted infections, and other critical health concerns during their pharmacy visit.

HPHA supports the encouragement of safe and accessible birth control methods for women in Hawaii. OTC contraceptives are an attainable way to prevent unintended or unwanted pregnancies; this bill will deter the overuse of emergency contraception, pregnancy termination, and other methods of pregnancy prevention that can be considered unsafe if over-used or used improperly.

Thank you for considering our testimony concerning **SB2320 SD1**, which would allow pharmacists to administer OTC birth control methods to women in Hawaii.

Respectfully submitted,

Hoce Kalkas, MPH HPHA Legislative and Government Relations  
Committee Chair



**Eric P. Douglas**  
Senior Director, Government Affairs

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Northbrook, IL 60062

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[Eric.Douglas@CVSHealth.com](mailto:Eric.Douglas@CVSHealth.com)

The Honorable Gilbert Keith-Agaran, Chair  
Senate Committee on Judiciary and Labor

Friday, February 26, 2016  
Conference Room 016; 10:00 AM

**RE: SB 2320 SD1 – Relating to Contraceptive Supplies – IN SUPPORT**

Aloha Chair Keith-Agaran, Vice Chair Shimabukuro and members of the Committee:

CVS Health appreciates the opportunity to testify on SB 2320 SD1. The bill, as written, would permit Hawaii licensed pharmacists to prescribe and dispense contraceptive supplies (as defined) to persons 18 years of age or older. While there remain some questions around coordination with PCPs, etc. the overall intent and basis for this bill is to fulfill a need and provide access to a key service and we believe the bill does both.

CVS Health understands and applauds the intent behind SB 2320 SD1, and we support this legislation for the following reasons:

- As a part of the passage of the ACA, contraceptives are required to be covered at \$0 copay, thus removing financial barriers to patients in order that they may have better opportunities to receive contraceptive care. We believe this bill goes one logical step further by increasing access to those prescriptions in more accessible locations, i.e. pharmacies.
- SB 2320 SD1 has the potential to save significant money once fully implemented. Those persons who choose to utilize a pharmacist to obtain their prescription contraceptive supplies will likely incur a lesser charge both on them as well as charges back to their plan sponsor, i.e. less than a typical office visit to a GP/PCP.
- Similar statutory authority already exists in the states of California and Oregon. In light of the rural population in Hawaii, SB 2320 SD1 can help fulfill a need while simultaneously saving on provider visit costs.

CVS Health proudly operates as the largest pharmacy chain in Hawaii, under our Longs Drugs banner and we also offer our patients and clients a wide range of comprehensive, integrated pharmacy and health operations statewide including: Pharmacy Benefit Management (PBM) services (CVS/caremark), Specialty Pharmacy (CVS/specialty), Mail-Order and Retail Pharmacy (CVS/pharmacy/Longs Drugs), Retail Health Clinics (CVS/minute clinic) and a distribution center.

We thank you for your consideration of our comments and ask that the Committee pass SB 2320 SD1.

Respectfully,

A handwritten signature in black ink that reads "Eric P. Douglas". The signature is written in a cursive, flowing style.

Eric P. Douglas

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, February 24, 2016 3:07 PM  
**To:** JDLTestimony  
**Cc:**  
**Subject:** \*Submitted testimony for SB2320 on Feb 26, 2016 10:00AM\*

**SB2320**

Submitted on: 2/24/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Michelle Rocca	Hawaii State Coalition Against Domestic Violence	Support	No

Comments:

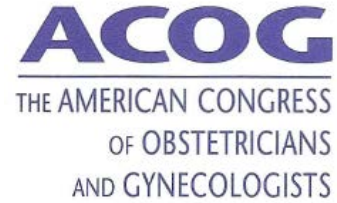
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***American Congress of Obstetricians and Gynecologists  
District VIII, Hawaii (Guam & American Samoa) Section***

Greigh Hirata, MD, FACOG, Chair  
94-235 Hanawai Circle, #1B  
Waipahu, Hawaii 96797



**COMMITTEE ON JUDICIARY AND LABOR**

Senator Gilbert S.C. Keith-Agaran, Chair  
Senator Maile S.L. Shimabukuro, Vice Chair

DATE: Friday, February 26, 2016  
TIME: 10:00 a.m.  
PLACE: Conference Room 016  
State Capitol  
415 South Beretania Street

FROM: Hawaii Section, ACOG  
Dr. Greigh Hirata, MD, FACOG, Chair  
Dr. Jennifer Salcedo, MD, MPH, MPP, FACOG, Vice-Chair  
Lauren Zirbel, Community and Government Relations

**Re: SB 2320, SD 1 Relating to Contraceptive Supplies**

**Position: Support**

Dear Senator Keith-Agaran, Senator Shimabukuro, and Committee Members,

The Hawaii Section of the American Congress of Obstetricians and Gynecologists (HI ACOG) supports SB2320 and other legislative proposals that promote increased access to contraception.

As a Section of the Nation's leading group of physicians dedicated to improving health care for women, HI ACOG represents over 160 obstetrician/gynecologist physicians in our state.

ACOG's recommendations include:

1. Oral contraceptives (OCs) should be sold over the counter (OTC) in drugstores without a doctor's prescription. Easier access to OCs should help lower the nation's high unintended pregnancy rate, a rate that has not changed over the past 20 years and costs taxpayers an estimated \$11.1 billion annually.
2. Cost, access, and convenience issues are common reasons why women do not use contraception or use it inconsistently. There are no OCs currently approved for OTC access; OTC availability will improve women's access to and use of contraception. The benefits of making OCs easily accessible outweigh the risks.
3. Even though no drug is risk-free, the overall consensus is that OCs are safe. There is a risk of blood clots with OC use, but it is extremely low and significantly lower than the risk of blood clots during pregnancy and the postpartum period.

Aspirin and acetaminophen are both available OTC even though they have well-known health risks.

4. Studies show women support OTC access to OCs and are able to self-screen with checklists to determine their health risks.

Evidence also shows that women will continue seeing their doctors for screening and preventive services even when allowed to purchase OCs without a prescription or doctor's appointment.

For these reasons, **HI ACOG supports SB2320.**

We stand ready to provide you with factual information on medical issues that come before the Legislature, and hope you will contact us at any time.

Over-The-Counter Access to oral contraception. Committee Opinion No. 554. American College of Obstetricians and Gynecologists. *Obstet Gynecol* 2012;120:1527-31 (reaffirmed 2014).

TESTIMONY OF THE AMERICAN COUNCIL OF LIFE INSURERS  
IN OPPOSITION TO HOUSE BILL SB 2320, SD 1, RELATING  
TO CONTRACEPTIVE SUPPLIES

February 26, 2016

Via e mail: [capitol.hawaii.gov/submittestimony.aspx](http://capitol.hawaii.gov/submittestimony.aspx)

Honorable Senator Gilbert S. C. Keith-Agaran, Chair  
Committee on Judiciary and Labor  
State Senate  
Hawaii State Capitol, Conference Room 016  
415 South Beretania Street  
Honolulu, Hawaii 96813

Dear Chair Keith-Agaran and Committee Members:

Thank you for the opportunity to testify in opposition to SB 2320, SD 1, relating to Contraceptive Supplies.

Our firm represents the American Council of Life Insurers (“ACLI”), a Washington, D.C., based trade association with approximately 300 member companies operating in the United States and abroad. ACLI advocates in federal, state, and international forums for public policy that supports the industry marketplace and the 75 million American families that rely on life insurers’ products for financial and retirement security. ACLI members offer life insurance, annuities, retirement plans, long-term care and disability income insurance, and reinsurance, representing more than 90 percent of industry assets and premiums. Two hundred sixteen (216) ACLI member companies currently do business in the State of Hawaii; and they represent 93% of the life insurance premiums and 88% of the annuity considerations in this State.

SB 2320, SD 1, seeks to amend §431: 10A-116.6, relating to contraceptive services and benefits which all group accident and health or sickness insurance policies, plans contracts or agreements are required to provide.

By its terms, Article 10A of the Code (by reference to HRS §431:1-205) defines “accident and health or sickness insurance” to include disability income insurance.

Disability income insurance provides cash payments designed to help individuals meet ongoing living expenses in the event they are unable to work due to illness or injury. Unlike health insurance, disability income insurance does not provide coverage for the insured’s health care or medical treatment; further, the cash payments are made directly to the insured – not to the insured’s health care providers or suppliers. Finally, the disability insurance policy typically does not dictate how the cash payments received by the insured are to be used by the insured.

HRS §431: 10A-102.5(a) provides a carve-out for “limited benefit health insurance” from the coverage and benefits requirements imposed upon all insurers issuing accident and health or sickness insurance which states:

Except as provided in subsection (b) and elsewhere in this article, when used in this article, the terms “accident insurance”, “health insurance”, or sickness insurance” shall not include an accident-only, specified disease, hospital indemnity, long-term care, disability, dental, vision, Medicare supplement, or other limited benefit health insurance contract that pays benefits directly to the insured or the insured’s assigns and in which the amount of the benefit paid is not based upon the actual costs incurred by the insured.

Notwithstanding the foregoing, subsection (b) of §431:10A-102.5 states that limited benefit health insurance is required to comply with the coverage and other requirements of certain sections of Article 10A of Hawaii’s Insurance Code. While these coverage and other requirements do not include the contraceptive coverage mandated by the section of the Insurance Code SB 2320 seeks to amend (HRS §431: 10A-116.6), that section by its express terms reinserts the requirement that all limited benefit insurance provide contraceptives as a benefit to the insured as it states:

Notwithstanding any provision of law to the contrary each employer group accident and health or sickness insurance policy, contract, plan or agreement issued or renewed in this state after January 1, 2000 shall cease to exclude contraceptive services or supplies for the subscriber or any dependent of the subscriber who is covered by the policy subject to the exclusion of section 431:10A-116.7. (Emphasis added)

Therefore, as currently worded §431: 10A-116.6 requires all group accident and health or sickness insurance, INCLUDING DISABILITY INSURANCE, to provide contraceptive services and supplies; and SB 2320 would now require disability insurers to reimburse a prescribing and dispensing pharmacist who prescribes and dispense contraceptive supplies as provided by other sections of the bill.

In order to dispel any confusion that DISABILITY INSURERS are required to provide coverage for contraceptive services and supplies and reimbursement to a prescribing and dispensing pharmacist for such services and supplies to an insured ACLI suggests that HRS §431: 10A-116.6 be amended as follows:

Notwithstanding any provision of law to the contrary each employer group accident and health or sickness insurance policy, contract, plan or agreement issued or renewed in this state after January 1, 2000 shall cease to exclude contraceptive services or supplies for the subscriber or any dependent of the subscriber who is covered by the policy subject to the exclusion under section 431:10A-116.7 and the exclusion under section 431:10A-102.5.”

Again, thank you for the opportunity to testify in opposition to SB 2320, SD 1.

LAW OFFICES OF  
OREN T. CHIKAMOTO  
A Limited Liability Law Company

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February 23, 2016

Senate's Committee on Judiciary and Labor  
Hawaii State Capitol  
415 South Beretania Street, Room 016  
Honolulu, HI 96813

Hearing: Friday, February 26, 2016 – 10:00 a.m.

RE: **SUPPORT for Senate Bill 2320 SD 1 – RELATING TO CONTRACEPTIVE SUPPLIES**

Aloha Chairperson Keith-Agaran, Vice Chair Shimabukuro and fellow committee members,

I am writing in SUPPORT to Senate Bill 2320 SD 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. SB 2320 SD 1 authorizes pharmacists to prescribe and dispense contraceptive supplies to persons eighteen years of age or older.

The cornerstone to ensuring every woman is in control of her own future is by making sure that each and every woman has access to contraceptive protection. We at the LGBT Caucus believes that this bill will strengthen that cornerstone.

We would be in strong support of this bill if the age in this bill had been linked to the age of consent. If this legislative body believes a person is old enough to consent to have sex then logic dictates that they should also be old enough to have access to contraceptive protection of their choice.

Mahalo nui loa,

Michael Golojuch, Jr.  
Chair

To: Hawaii State House of Representatives Committee on Judiciary and Labor  
Hearing Date/Time: Friday, February 26, 2016, 10:00 a.m.  
Place: Hawaii State Capitol, Rm. 016  
Re: Testimony of Planned Parenthood of Hawaii in support of S.B. 2320, S.D.1,  
Relating to Contraceptive Supplies, and offering an amendment

Dear Chair Keith-Agaran and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in support of S.B. 2320, SD1, which authorizes pharmacists to prescribe and dispense contraceptive supplies. However, we strongly oppose the requirement that only allows pharmacists to prescribe and dispense contraceptive supplies to those over the age of 18 and respectfully request that the committee remove that provision.

PPVNH is dedicated to advocating for women’s full equality in health care access and supports S.B. 2320 because it will reduce the barriers that women face when attempting to access consistent and reliable contraception. By allowing pharmacists to prescribe and dispense contraception, S.B. 2320 will make contraception more accessible and have the effect of reducing unintended pregnancy and its associated costs to taxpayers.

However, while we appreciate the bill’s intent to expand access to birth control, we have some significant concerns about the bill as currently written. We want to make sure that any bill that appears to increase access to birth control will actually do so.

- First and foremost, we respectfully request removal of the age restriction in the bill. Hawaii state law explicitly extends the right to consent to and receive health care services, including reproductive health care, and allows them to contract for those services. By introducing an age restriction into minors’ access to contraceptive, this bill will reduce the positive impact that this bill will have on access to birth control.
- Further, we request that the bill ensure that women still get information about the full range of contraceptive options, including the most effective methods – long acting reversible contraceptives – which are available only through a health care provider. Pharmacists are experts in their field, but they are asked to do a lot for patients, so we should consider whether many pharmacists would have the time to add these areas of education and counseling to their work with patients, beyond those who already seek (or could seek) the opportunity to do so with a collaborative practice agreement.
- We also request additional language defining “clinical visit for women’s health,” which could mean different things for different women. Depending on age and health history, women face different health care recommendations and without greater specificity in this language, it is unclear exactly what care women must get to qualify for pharmacist prescription.

- Finally, although the bill includes insurance coverage for “prescribing and dispensing” contraceptive supplies, we are concerned that this language does not include guarantees that pharmacists would also receive reimbursement for a contraceptive counseling session. High-quality contraceptive counseling sessions take time, and we want to ensure pharmacists are paid for that time.

Thank you for this opportunity to testify in support of S.B. 2320 and for considering amendments to further increase women’s access to health care and reduce unintended pregnancy and its cost to taxpayers.

Sincerely,  
Laurie Field  
Hawaii Legislative Director and Public Affairs Manager



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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, February 23, 2016 8:37 PM  
**To:** JDLTestimony  
**Cc:**  
**Subject:** \*Submitted testimony for SB2320 on Feb 26, 2016 10:00AM\*

**SB2320**

Submitted on: 2/23/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Lynn Onderko	Individual	Support	No

Comments:

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**To:** JDLTestimony  
**Cc:**  
**Subject:** Submitted testimony for SB2320 on Feb 26, 2016 10:00AM

**SB2320**

Submitted on: 2/23/2016

Testimony for JDL on Feb 26, 2016 10:00AM in Conference Room 016

Submitted By	Organization	Testifier Position	Present at Hearing
Mike Golojuch	Individual	Support	No

Comments: Please pass this bill.

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