



**TESTIMONY OF
THE DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA
THIRTY-THIRD LEGISLATURE, 2025**

ON THE FOLLOWING MEASURE:

H.B. NO. 139, H.D. 2, RELATING TO INSURANCE.

BEFORE THE:

SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

DATE: Monday, March 17, 2025

TIME: 1:00 p.m.

LOCATION: State Capitol, Room 225

TESTIFIER(S): Anne E. Lopez, Attorney General, or
Andrew I. Kim or Christopher J.I. Leong, Deputy Attorneys General

Chair San Buenaventura and Members of the Committee:

The Department of the Attorney General provides the following comments.

This bill requires insurers, mutual benefit societies, and health maintenance organizations to provide coverage for standard fertility preservation services for persons undergoing medically necessary treatment that may cause iatrogenic infertility.

As currently drafted, this bill would allow the American Society of Clinical Oncology to determine the required coverage. This bill, therefore, may be subject to challenge for containing an unlawful delegation of legislative power by incorporating future publications made by the American Society of Clinical Oncology into the statute. See State v. Christie, 70 Haw. 158, 171, 766 P.2d 1198, 1205 (1988) ("legislation empowering 'private persons to decide what the law shall be' may be invalid."); cf. State v. Tengan, 67 Haw. 451, 463, 691 P.2d 365, 373 (1984) ("state legislation which adopts by reference *future* legislation, rules, or regulations, or amendments thereof, which are enacted, adopted, or promulgated by another sovereign entity, [would constitute] an unlawful delegation of legislative power.").

In the Auditor's Report No. 23-11, "Study of Proposed Mandatory Health Insurance Coverage for Standard Fertility Preservation Services," the Auditor determined that the American Society of Clinical Oncology published its most recent update to the guidelines in 2018. The 2018-updated guidelines were used by the

Auditor to define "standard fertility preservation services". See Report No. 23-11 on pages 2-5. Accordingly, we recommend the following amendments.

- On page 2, lines 9-12: "Any clinical guidelines used by the insurer shall be based on the ~~[current]~~ 2018 update to the guidelines developed by the American Society of Clinical Oncology and shall not deviate from the full scope of the guidelines."
- On page 3, lines 3-10: "'Standard fertility preservation services' means the procedures to preserve fertility as outlined and established according to the 2018 update to the professional guidelines published by the American Society of Clinical Oncology. 'Standard fertility preservation services' include the full scope of services or treatments, without any exclusions or limitations, as defined in the ~~[most recent]~~ 2018 update to the professional guidelines established by the American Society of Clinical Oncology."
- On page 5, lines 3-7: "Any clinical guidelines used by the mutual benefit society shall be based on the ~~[current]~~ 2018 update to the guidelines developed by the American Society of Clinical Oncology and shall not deviate from the full scope of the guidelines."
- On page 5, line 18, to page 6, line 4: "'Standard fertility preservation services' means the procedures to preserve fertility as outlined and established according to the 2018 update to the professional guidelines published by the American Society of Clinical Oncology. 'Standard fertility preservation services' include the full scope of services or treatments, without any exclusions or limitations, as defined in the ~~[most recent]~~ 2018 update to the professional guidelines established by the American Society of Clinical Oncology."

Similarly, on page 2, line 19, to page 3, line 2, and page 5, lines 14-17, medically necessary treatment that may directly or indirectly cause iatrogenic infertility is defined as "medical treatment with a likely side effect of infertility as established by the American Society of Clinical Oncology" (emphasis added). This provision may also contain an unlawful delegation of legislative power. The Auditor's report assumed that

"medical treatment with a likely side effect of infertility as established by the American Society of Clinical Oncology" means any cancer-related medical treatment with a likely side effect of infertility. See Report No. 23-11 on pages 10-11. The report noted that the American Society of Clinical Oncology guidelines have not published a list of medical treatments that may result in a patient being at risk for infertility since 2006. See id. Accordingly, we also recommend that page 2, line 19, to page 3, line 2, be amended as follows: "'Medically necessary treatment that may directly or indirectly cause iatrogenic infertility' means any cancer-related medical treatment with a likely side effect of infertility [~~as established by the American Society of Clinical Oncology~~]."

Likewise, page 5, lines 14-17, should be amended, as follows: "'Medically necessary treatment that may directly or indirectly cause iatrogenic infertility' means any cancer-related medical treatment with a likely side effect of infertility [~~as established by the American Society of Clinical Oncology~~]."

For the reasons noted above, we also recommend amending page 3, lines 12-14: "Any experimental procedures or other procedures not determined to be established medical practices according to the 2018 update to the guidelines developed by the American Society of Clinical Oncology". Likewise, amending page 6, lines 6-8, as follows: "Any experimental procedures or other procedures not determined to be established medical practices according to the 2018 update to the guidelines developed by the American Society of Clinical Oncology".

Additionally, section 3 of this bill amends section 432D-23, HRS, to require health maintenance organizations to provide the required benefits as provided under section 1 of this bill. To clarify that the mandated coverage for health maintenance organizations applies to policies issued or renewed after December 31, 2025, we recommend that a new section with the following wording be included in this bill: "The benefit to be provided by health maintenance organizations corresponding to the benefit provided under section 431:10A- , Hawaii Revised Statutes, as contained in the amendment to section 432D-23, Hawaii Revised Statutes, in section 3 of this Act, shall take effect for all policies, contracts, plans, or agreements issued or renewed in the State on or after December 31, 2025."

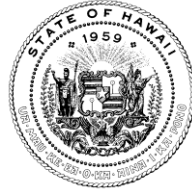
Lastly, this bill would require Qualified Health Plans to provide coverage for standard fertility preservation services for persons undergoing medically necessary treatment that may cause iatrogenic infertility. A Qualified Health Plan is an insurance plan that meets the requirements of the Affordable Care Act and is certified by the Health Insurance Marketplace. Under 45 C.F.R. § 155.170, a state may require a Qualified Health Plan to offer benefits in addition to essential health benefits, but only if it defrays the cost of the additional required benefits for the Qualified Health Plan. As provided in 45 C.F.R. § 155.170(a)(2):

A benefit required by State action taking place on or before December 31, 2011, a benefit required by State action for purposes of compliance with Federal requirements, or a benefit covered in the State's EHB-benchmark plan is considered an EHB. A benefit required by State action taking place on or after January 1, 2012, other than for purposes of compliance with Federal requirements, that is not a benefit covered in the State's EHB-benchmark plan is considered in addition to the essential health benefits.

Hawaii's EHB-benchmark Plan is the Hawaii Medical Service Association's Preferred Provider Plan 2010.

It is unclear whether Hawaii's EHB-benchmark plan or federal law provides the proposed mandated coverage under this bill. If the proposed mandated coverage is not included in the EHB-benchmark plan or required under federal law, the State may be required to defray the cost.

Thank you for the opportunity to provide comments.



JOSH GREEN, M.D.
GOVERNOR | KE KIA'ĀINA

SYLVIA LUKE
LIEUTENANT GOVERNOR | KA HOPE KIA'ĀINA

STATE OF HAWAII | KA MOKU'ĀINA 'O HAWAI'I
OFFICE OF THE DIRECTOR
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NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

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Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committee on Health and Human Services
Monday, March 17, 2025
1:00 p.m.
State Capitol, Conference Room 225 & via Videoconference

On the following measure:
H.B. 139, H.D. 2 RELATING TO INSURANCE

Chair San Buenaventura and Members of the Committee:

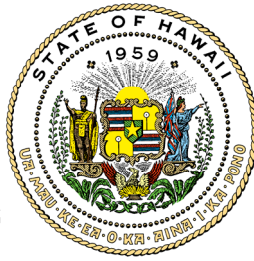
My name is Jerry Bump, and I am the Acting Insurance Commissioner for the Department of Commerce and Consumer Affairs' (Department) Insurance Division. The Department offers comments on this bill.

The purpose of this bill is, for policies, contracts, plans, and agreements issued or renewed after 12/31/2025, to require insurers, mutual benefit societies, and health maintenance organizations to provide coverage for standard fertility preservation services for persons undergoing medically necessary treatment that may cause iatrogenic infertility.

We note that it is unclear whether the amendments in sections 1 through 3 of this bill would be construed as "in addition to the essential health benefits" within the meaning of 45 Code of Federal Regulations (CFR) § 155.170(a), or subject to defrayment provisions under 45 CFR § 155.170(b) which apply to benefits "in addition to the essential health benefits."

Finally, Hawaii Revised Statutes (HRS) section 432E-1.4 sets forth standards for medical necessity and coverage of health interventions not specifically excluded. This bill proposes that any limitations imposed by a plan shall be in accordance with a specific standard, “current guidelines developed by the American Society of Clinical Oncology,” which differs from HRS section 432E-1.4.

Thank you for the opportunity to testify.



SENATE COMMITTEE ON HEALTH AND HUMAN SERVICES

The Honorable Joy A. San Buenaventura, Chair

The Honorable Henry J.C. Aquino, Vice Chair

H.B. NO. 139, H.D. 2, RELATING TO INSURANCE

Hearing: Monday, March 17, 2025, 1:00 p.m.

The Office of the Auditor offers comments on H.B. No. 139, H.D. 2, which will require individual and group health insurers to include coverage for standard fertility preservation services for the policyholder and individuals under twenty-six years of age covered under the policy who may undergo medically necessary treatment that may directly or indirectly cause iatrogenic infertility.

We assessed the social and financial impacts of an almost identical health insurance mandate introduced in the 2023 legislative session as S.B. No. 1446 and reported numerous ambiguities in the bill that required us to make certain assumptions about the proposed mandatory coverage. For example, the bill defined “[m]edically necessary treatment that may directly or indirectly cause iatrogenic infertility” to mean “medical treatment with a likely side effect of infertility as established by the American Society of Clinical Oncology.” We found, however, that the American Society of Clinical Oncology had not published a list of medical treatments that may result in a patient being at risk for infertility since 2006. The American Society of Clinical Oncology explained that there may be treatments in addition to those used in 2006 that pose a risk to a patient’s fertility. See Report No. 23-11, *Study of Proposed Mandatory Health Insurance Coverage for Standard Fertility Preservation Services*, Report No. 23-11, which can be accessed through our website at <https://files.hawaii.gov/auditor/Reports/2023/23-11.pdf>.

Because of the similarities between the *current* form of H.B. 139, H.D. 2 and the bill that we reviewed in 2023, we do not anticipate any change to our assessment of the social and financial impacts that we determined in Report No. 23-11. For that reason, we do not believe that the Legislature must refer the proposed health insurance mandate to us under Section 23-51, Hawai‘i Revised Statutes.

Testimony of
John M. Kirimitsu
Counsel

Senate Committee on Health and Human Services
The Honorable Joy A. San Buenaventura, Chair
The Honorable J.C. Aquino, Vice Chair

March 17, 2025
1:00 pm
Conference Room 225
Via Videoconference

HB 139 SD2 Relating to Insurance

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on the decision making for this bill mandating optional insurance coverage for iatrogenic infertility.

Kaiser Permanente Hawaii would like to request an amendment.

Should this bill move forward, Kaiser requests an amendment on Page 3, lines 3-6, to include the nationally recognized “medically necessary” standard, which will ensure that fertility preservation services meet the criteria established by national standards accepted in the medical community consistent with Hawaii Revised Statutes section 432E-1.4 (added language is **bolded** and deleted language is ~~stricken~~):

Standard fertility preservation services" means **medically necessary** the procedures **prescribed by a licensed physician** to preserve fertility as outlined and established according to the professional guidelines published by the American Society of Clinical Oncology. . . .

Thank you for your consideration.



March 17, 2025

The Honorable Joy San Buenaventura, Chair
The Honorable Henry Aquino, Vice Chair
Senate Committee on Health and Human Services

Re: HB139 HD2 - RELATING TO INSURANCE

Dear Chair San Buenaventura, Vice Chair Aquino, and members of the committee,

Hawaii Medical Service Association (HMSA) supports HB 139 HD2, which requires insurers, mutual benefit societies, and health maintenance organizations to provide coverage for standard fertility services for persons undergoing medically necessary treatment that may cause iatrogenic infertility.

We understand that infertility is a complex and deeply personal challenge and have always aimed to provide fertility access that meets and/or exceeds the needs of our community and members. HMSA takes a cautious look at health mandates due to the complex and evolving nature of medicine. We recognize that Auditor's study 23-11 looked to identify the impacts of this bill, which mirrors HB1624 HD1 SD1 (2024) that we worked collaboratively on with the advocates.

We appreciate the effort of the committee and key stakeholders to craft a path forward that ensures Hawaii residents have access to medically necessary fertility treatments. We support ensuring that individuals who are undergoing or will have to face medically intense treatments that could risk future fertility can focus on strengthening their health and well-being and can still have the opportunity to remain ready for fertility treatment.

Thank you for the opportunity to testify on this measure.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations

March 17, 2025

To: Chair San Buenaventura, Vice Chair Aquino, and Members of the Senate Committee on Health and Human Services

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: March 17, 2025; 1:00 pm/Conference Room 225 & Videoconference

Re: Testimony in support of HB 139 HD2 – Relating to Standard Fertility Preservation

The Hawaii Association of Health Plans (HAHP) supports HB 139 HD2. HAHP is a statewide partnership that unifies Hawaii's health plans to improve the health of Hawaii's communities together. A majority of Hawaii residents receive their health coverage through a plan associated with one of our organizations.

Access to fertility preservation is a crucial benefit for patients whose desire to have children might otherwise delay their decision to seek necessary medical treatment. Recognizing the importance of this issue, the member organizations of HAHP support lawmakers' efforts to ensure that standard fertility preservation services are accessible to individuals undergoing medically necessary treatments that may result in infertility, particularly due to cancer diagnosis and/or treatment.

Thank you for the opportunity to testify in support of HB 139 HD2.

Sincerely,

HAHP Public Policy Committee
cc: HAHP Board Members

March 14th, 2025

Subject: This letter is in **SUPPORT of HB 139** as a request for mandatory health insurance coverage for fertility preservation procedures for individuals undergoing medically necessary treatment that may cause iatrogenic infertility.

Dear Honorable Health and Human Services Committee Members,

As a fertility specialist that treats cancer patients utilizing fertility preservation therapies, I believe fertility preservation is critical to cancer care. Therefore, I request your support for a bill that would mandate health insurance coverage for fertility preservation procedures for certain persons diagnosed with cancer whose cancer or cancer treatment may adversely affect their fertility.

Cancer treatments such as chemotherapy and radiation can significantly damage reproductive tissues and affect fertility in both men and women. As a result, patients undergoing these treatments often face the heartbreaking reality that their cancer treatment may cause them to become infertile. This can have significant long-term mental, emotional, and physical impacts on patients, their partners, and their families.

Fortunately, cancer treatment has progressed to a point where patients are often cured of their disease. However, this creates a dilemma for the reproductive-age patient living without the ability to have children. For many people diagnosed with cancer, the dream of having a family will never be realized. However, with today's technology, cancer survivors do NOT need a childless survival.

Science has provided hope for cancer patients. Before cancer treatments, many patients can preserve their fertility so that once cured; they can do what many take for granted and start a family.

There are many fertility preservation options available for cancer patients.

1. Male individuals can freeze sperm. When thawed and used, frozen sperm has the same reproductive fidelity as fresh sperm. Frozen sperm has been utilized as a fertility treatment for decades without any adverse findings on offspring.
2. Male and female individuals have been able to freeze embryos using In Vitro Fertilization for years. Eggs can be harvested and fertilized with sperm. The resulting embryos can be cryopreserved indefinitely. Over the last 30+ years, over 9 million children have been born using IVF procedures.
3. Female individuals can now freeze eggs utilizing In Vitro Fertilization with the same reproductive success realized for decades using frozen sperm and embryos.

Fertility preservation techniques such as sperm and egg cryopreservation, embryo freezing, and ovarian tissue freezing can offer a chance for cancer patients to maintain their fertility options so they can start a family after their cancer treatment.

As a fertility specialist, I counsel cancer patients (males and females) routinely on their options for fertility preservation.

I see the hope that option brings to the patient with newly diagnosed cancer. This hope of future fertility and family helps us successfully proceed through the arduous cancer treatment. Unfortunately, many cancer patients cannot afford the costs of fertility preservation therapies. For many patients, the financial burden of fertility preservation can be as devastating as the cancer diagnosis itself, leaving them unable to preserve their fertility.

Therefore, we urge you to support a bill that would mandate health insurance coverage for fertility preservation procedures for certain persons diagnosed with cancer whose cancer or cancer treatment may adversely affect their fertility. This bill would ensure that cancer patients with fertility preservation coverage would not have to bear the financial burden of the treatment. Without it, many of our friends and families who survive cancer will not be able to experience the privilege of having a family –a freedom many take for granted. The entire point of health insurance is to help an individual of the financial burden of unexpected health catastrophes, such as cancer. The gonadotoxic effects of chemotherapy and radiation is part of the cancer problem, and denying coverage for fertility preservation would be like denying coverage for any other cancer component.

The argument that a state-wide mandate requiring fertility preservation is overly burdensome on taxpayers is non-applicable. Thankfully, cancers that afflict reproductive aged individuals are rare. The cost of a single fertility preservation cycle is the same cost, if not cheaper, than the cost of the fertility treatment cycle of IVF that is already mandated. Especially when compared to the high costs that the insurance companies would otherwise have to pay for expensive fertility treatment with poor prognosis later, fertility preservation cycles are a smart financial decision for the insurance company.

I hope that you will consider our request and show your support for cancer patients and fertility preservation. Your support makes make a significant difference for cancer patients struggling with infertility's emotional and financial consequences.

Thank you for taking the time to consider this critical issue.

Sincerely and Mahalo,

A handwritten signature in black ink, appearing to read 'Emily Goulet', with a long horizontal flourish extending to the right.

Emily Goulet MD FACOG

Reproductive Endocrinology and Infertility
Fertility Institute of Hawaii
1585 Kapiolani Blvd Ste 1800
Honolulu HI 96814
www.IVFcenterHawaii.com



March 15, 2025

Senator Joy San Buenaventura, Chair
Senate Committee on Health and Human Services
Room 213, Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

Dear Chair San Buenaventura and Members of the Senate Committee on Health and Human Services,

The Hawaii Society of Clinical Oncology (HSCO) and the Association for Clinical Oncology (ASCO) are pleased to **support HB 139**, which would provide coverage of fertility preservation services for Hawaii patients with cancer.

Earlier this session, amendments were added to the Senate companion bill, SB 642, to make fertility preservation coverage optional and to exclude language that would have provided coverage for dependents. Because the Auditor's conclusion states that the office "... included all insureds, including policyholders, plan members, and policyholders' and plan members' spouses and children, without any age restrictions or limitations in [the] analysis," our organizations believe HB 139, as written, meets all requirements to be passed into law. **We respectfully request that the Committee does not adopt the amendments included in SB 642.**

HSCO is a community of oncologists, nurse practitioners, physician assistants, and other allied health professionals who provide a passionate voice for multidisciplinary cancer care teams and the patients they serve. ASCO is an organization representing physicians who care for people with cancer. With more than 50,000 members, our core mission is to ensure that cancer patients have meaningful access to high-quality cancer care.

HSCO and ASCO believe that as part of education and informed consent before cancer therapy, health care providers should address the possibility of infertility with both male and female patients treated during their reproductive years. Providers should also be prepared to discuss fertility preservation options and/or refer all potential patients to appropriate reproductive specialists. As such, HSCO and ASCO advocate for coverage of embryo, oocyte and sperm cryopreservation procedures for an insured patient who is at least eighteen years of age and has been diagnosed with cancer but has not started cancer treatment (including chemotherapy, biotherapy or radiation therapy treatment) in accordance with [guidelines](#) developed by our affiliate organization, the American Society of Clinical Oncology.

We encourage providers to advise patients regarding potential threats to fertility as early as possible in the treatment process to allow for the widest array of options for fertility preservation. HSCO and ASCO strongly support HB 139 as written and encourage the Committee to pass this bill as a key step to ensure coverage of fertility preservation services for patients with cancer. If you have questions or would like

assistance on any issue involving the care of individuals with cancer, please contact Sarah Lanford at ASCO at Sarah.Lanford@asco.org.

Sincerely,

Michael Carney, MD
President
Hawaii Society of Clinical Oncology

Eric P. Winer, MD, FASCO
Chair of the Board
Association for Clinical Oncology



Senator Joy San Buenaventura, Chair
Senator Henry Aquino, Vice Chair
Members of Senate Committee on Health and Human Services

Hearing Date: Monday, March 17, 2025

ACS CAN SUPPORTS HB 139 HD2: RELATING TO INSURANCE.

Cynthia Au, Government Relations Director – Hawai'i Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to **SUPPORT** HB 139 HD2: Relating to Insurance. The American Cancer Society Cancer Action Network (ACS CAN), the nonprofit, non-partisan advocacy affiliate of the American Cancer Society, advocates for public policies that reduce death and suffering from cancer. ACS CAN works with federal, state, and local government bodies to support evidence-based policy and legislative solutions designed to eliminate cancer as a major health problem.

ACS CAN supports requiring insurance plans to cover standard fertility preservation services for cancer patients and survivors. Cancer is a scary experience. Coverage of fertility services provides options for cancer survivors to have biological children even after treatment has resulted in temporary or permanent infertility, allowing those impacted by cancer to focus their efforts where they belong—on getting better. All individuals should have equitable access to quality cancer care and an equal opportunity to live a full life. For these reasons, fertility treatments become an important medical question for many young cancer patients. Costs for fertility treatment are a significant barrier for many patients and services are often not covered by insurance.

Earlier this session, amendments were added to the Senate companion bill, SB 642, to make fertility preservation coverage optional and to exclude language that would have provided coverage for dependents. Because the Auditor's conclusion states that the office "... included all insureds, including policyholders, plan members, and policyholders' and plan members' spouses and children, without any age restrictions or limitations in [the] analysis," our organizations

believe HB 139, as written, meets all requirements to be passed into law. **We respectfully request that the Committee does not adopt the amendments included in SB 642.**

In 2025, an estimated 9,550 children (ages 0 to 14 years) and 5,140 adolescents (ages 15-19 years) will be diagnosed with cancer in the United States.ⁱ About 80,000 young adults aged 20 to 39 are diagnosed with cancer each year in the United States.ⁱⁱ The incidence rate of childhood cancer in Hawaii has been rising over the past ten years. The treatments received by many of these children and young adults may directly impact their ability to produce children. Children and teenagers who have cancer may have surgery or get treatments that can damage their growing and maturing organs, and some can affect their hormone and sexual development. Cancer treatments in their younger years can affect fertility later in life.ⁱⁱⁱ Young adults with cancer may also experience issues with fertility related to their cancer and cancer treatment. The problems might be caused by:

- A tumor directly damaging an organ or its surrounding tissue
- Removing cancerous organs that normally would be needed to have a child (for example, cancer surgery might be needed to remove all or part of the testicles, penis, ovaries, uterus, or cervix.)
- Certain treatments for cancer that can change hormone levels, put a woman into early menopause, damage nerves, or make certain sex organs stop working properly
- Psychological or emotional responses, such as stress and anxiety.^{iv}

For some cancer survivors, fertility is not affected by cancer treatment, but by age. There is a risk of birth defects when a woman becomes pregnant while getting or after receiving some types of chemotherapy, radiation therapy, and hormone therapy. In some cases, the risk can last for a long time, making getting pregnant a concern even years after treatment ends. Women are typically advised to not to get pregnant during treatment and may be told to avoid getting pregnant afterwards, depending on the treatment and situation. The risk for male cancer survivors who father a child is not as clear, and many doctors will advise against fathering a child during active treatment.^v

Presently, 22 states require insurers to provide some form of coverage for diagnosis and treatment of infertility; of those, 19 require coverage of some fertility preservation services.^{vi}

Thank you again for the opportunity to provide testimony in SUPPORT. We urge that you pass out of committee this very important bill. Should you have any questions, please do not hesitate to contact Government Relations Director Cynthia Au at 808.460.6109, or Cynthia.Au@Cancer.org.

ⁱ American Cancer Society. Cancer Facts & Figures 2025. Atlanta: American Cancer Society; 2025

ⁱⁱ See <https://www.cancer.org/cancer/cancer-in-young-adults/key-statistics.html>

ⁱⁱⁱ American Cancer Society, How Cancer and Cancer Treatment Can Affect Fertility, <https://www.cancer.org/treatment/treatments-and-side-effects/physical-side-effects/fertility-and-sexual-sideeffects/how-cancer-treatment-affects-fertility.html>

^{iv} Ibid.

^v Ibid.

^{vi} <https://resolve.org/learn/financial-resources-for-family-building/insurance-coverage/insurance-coverage-by-state/>



March 16, 2025

Subject: This letter is in **ENTHUSIASTIC SUPPORT of HB 139, H.D. 2** as a request for **Mandatory Health Insurance Coverage** for Fertility Preservation Procedures in Patients Experiencing Iatrogenic Infertility.

Dear Chair San Buenaventura, Vice Chair Aquino, and Honorable Committee on Health and Human Services Members:

Iatrogenic infertility is preventable. As a physician and fertility clinic that treats patients with Iatrogenic Infertility secondary to cancer and other reasons utilizing fertility preservation therapies, we see first-hand that fertility preservation is critical to the care of these patients. Therefore, we request your support for **HB 139**, which would mandate health insurance coverage for fertility preservation procedures for specific persons with cancer or other diagnoses whose diagnosis and treatment may adversely affect their fertility.

Many medical treatments, such as chemotherapy and radiation, can significantly damage reproductive tissues and affect fertility in both men and women. As a result, patients undergoing these treatments often face the heartbreaking reality that their cancer or other diagnosis treatment may cause them to become infertile. This can have significant long-term mental, emotional, and physical impacts on patients, their partners, and their families.

Fortunately, medical treatment for many diagnoses, including cancer, has progressed to a point where patients are often cured of their disease. However, this creates a dilemma for the reproductive-age patient living without the ability to procreate. For many people with these diagnoses, the dream of having a family will never be realized. However, with today's technology, **survivors do NOT need childless survival**. Many patients can preserve their fertility so that once cured, they can do what many take for granted and start a family.

HB 139 is crucial legislation that aims to support individuals facing iatrogenic infertility by ensuring access to vital **fertility preservation techniques such as indefinite sperm, egg, and embryo cryopreservation**. These procedures offer hope to patients who wish to start a family after undergoing medical treatments that compromise their fertility.

1. **Sperm** can be cryopreserved. When thawed and used, frozen sperm has the same reproductive fidelity as fresh sperm. Frozen sperm has been utilized as a fertility treatment for decades without any adverse findings on offspring.
2. **Embryos** using In Vitro Fertilization (IVF) can be cryopreserved for years. Eggs can be harvested and fertilized with sperm. The resulting embryos can be cryopreserved

indefinitely. Over the last 45+ years, over 15 million children have been born using IVF procedures.

3. **Eggs (oocytes)** can be harvested utilizing In Vitro Fertilization, cryopreserved, and subsequently utilized many years later with the same reproductive success realized for decades using frozen sperm and embryos.

Personally as a fertility specialist, I routinely counsel patients on their options for fertility preservation. I see the hope that the option of preserving their fertility brings to the newly diagnosed patient. This hope of future fertility and family helps patients successfully proceed through the arduous medical treatment. Unfortunately, many patients cannot afford the costs of fertility preservation therapies. For many patients, the financial burden of fertility preservation can be as devastating as the new diagnosis itself, leaving them unable to preserve their fertility. I passionately believe that providing insurance coverage for fertility preservation procedures is essential to address the needs of our community.

A common argument against providing insurance coverage for fertility preservation is the associated cost. However, **the reality is that the treatments causing iatrogenic infertility, such as chemotherapy or radiation, are extremely expensive. In comparison, the cost of fertility preservation procedures is minimal.** Furthermore, the overall impact on insurance companies' expenses if they were to cover fertility preservation would be negligible, especially when viewed against the backdrop of the high costs of the treatments leading to infertility. Providing coverage for fertility preservation not only ensures equitable access to care but also demonstrates a commitment to supporting patients' long-term quality of life.

The **financial burden** of fertility preservation for individuals undergoing medical treatments that may cause iatrogenic infertility is significant, often placing an insurmountable strain on patients already facing serious health challenges. However, when distributed across an insured population, the cost of providing this essential coverage is minimal. In its November 2023 analysis of SB 1446, the Hawaii State Auditor (Report No. 23-11) assessed the fiscal impact of mandating insurance coverage for fertility preservation and concluded that "it is unlikely that premiums would increase beyond a minimal amount" due to the limited number of individuals who would qualify. This finding underscores that **the financial impact on insurers is negligible.** At the same time, the benefit to affected patients is profound, ensuring they can preserve their reproductive potential before undergoing life-saving medical treatments. Given the life-changing implications for patients and the minimal financial impact on the broader insured population, mandating insurance coverage for fertility preservation is a reasonable and necessary step toward equitable healthcare.

Numerous states have already embraced this legislation. By supporting HB 139, you are championing the welfare of our 'ohana and showcasing your dedication to fulfilling the needs of your constituents. Therefore, we urge you to support HB 139, which would mandate health insurance coverage for fertility preservation procedures for certain people diagnosed with cancer or other conditions that would adversely affect their

fertility. This bill would ensure that these patients would not bear the financial burden of fertility preservation treatment. Without it, many of our friends and families who survive these iatrogenic infertility-causing diagnoses will not be able to experience the privilege of having a family –a freedom many take for granted.

We hope that you will show your support for patients who must undergo iatrogenic infertility-causing treatment. Your support makes a significant difference for these patients and your constituents struggling with infertility's emotional and financial consequences.

Thank you for taking the time to consider this critical issue.

Sincerely and Mahalo,

A handwritten signature in black ink, appearing to read 'JL Frattarelli', with a long horizontal flourish extending to the right.

John L. Frattarelli, M.D., HCLD
CEO, Laboratory, Practice, & Medical Director
Fertility Institute of Hawaii &
Advanced Reproductive Medicine & Gynecology of Hawaii, Inc.
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LATE



Mar 16, 2025

RE: Testimony in **SUPPORT of SB 642**

Subject: Strong Support for HB 139 – Mandatory Health Insurance Coverage for Fertility Preservation Procedures in Patients Experiencing Iatrogenic Infertility

Dear Chair San Buenaventura, Vice Chair Aquino, and Honorable Members of the Committee on Health and Human Services,

I am writing in **strong support** of HB 139, which seeks to mandate health insurance coverage for fertility preservation procedures for individuals undergoing medical treatments that may cause iatrogenic infertility.

In my work at The Fertility Institute of Hawaii, I witness firsthand the challenges faced by patients who are diagnosed with cancer and other serious medical conditions. Necessary treatments such as chemotherapy, radiation, and surgery often come with the unintended consequence of permanently damaging fertility. While these treatments can save lives, they also force patients to confront the devastating reality that they may never have the opportunity to build a family.

Thanks to advancements in reproductive medicine, fertility preservation techniques such as sperm, egg, and embryo cryopreservation allow patients to safeguard their ability to have children in the future. However, the cost of these procedures is prohibitively high for many individuals, and the lack of insurance coverage forces patients to make impossible choices—either delay life-saving treatment to gather funds or forgo fertility preservation entirely.

It is a misconception that covering fertility preservation would be financially burdensome for insurers. The Hawaii State Auditor's November 2023 analysis (Report No. 23-11) of similar legislation determined that mandating insurance coverage for fertility preservation would have only a minimal impact on insurance premiums due to the limited number of individuals who qualify. In contrast, the costs of the treatments that cause iatrogenic infertility, such as chemotherapy, radiation, and surgical interventions, are already significant. The financial burden of fertility preservation, when distributed across an insured population, is negligible, while the benefit to patients is life-changing.

Through my work, I see the hope and relief that the option to freeze eggs, sperm, or embryos brings to those facing serious illnesses. This hope helps patients navigate their treatment with greater resilience, knowing they have a chance at parenthood after survival. However, for too many patients, financial constraints make this hope unattainable. No one should have to choose between fighting for their life and preserving their ability to have a family.

Hawai'i has always prioritized the well-being of our 'ohana. By passing HB 139, you are not only supporting equitable access to essential healthcare, but also upholding our cultural values by ensuring that all patients, regardless of financial means, can preserve their reproductive potential. I urge your support for HB 139 to protect the future fertility of patients facing life-saving medical treatments.

Mahalo for your time and consideration.

Tiare Brown
Director of 3rd Party Services
Fertility Institute of Hawaii
1585 Kapiolani Blvd., Suite 1800, Honolulu HI, 96814



March 16, 2025

LATE

Subject: Strong Support for HB 139, H.D. 2 - Mandatory Coverage for Fertility Preservation Procedures in Patients Experiencing Iatrogenic Infertility.

Dear Chair San Buenaventura, Vice Chair Aquino, and Honorable Committee on Health and Human Services Members:

I am writing to express my enthusiastic support for HB 139, H.D. 2, which seeks to mandate health insurance coverage for fertility preservation procedures for individuals undergoing medically necessary treatments that may cause iatrogenic infertility. As an infertility physician serving the diverse communities of Hawaii, I can attest to the critical importance of this legislation.

Iatrogenic infertility, which can result from treatments like chemotherapy and radiation, poses a significant challenge for many patients. The potential to lose the ability to conceive can add immense emotional and psychological burdens to those already facing serious health issues. It is imperative that we provide these individuals with the opportunity to preserve their fertility, ensuring they have a chance to start a family in the future.

Here are some key reasons why supporting HB 139 is essential:

1. **Access to Fertility Preservation:** This legislation will guarantee that all patients, regardless of their financial situation, have access to necessary fertility preservation services such as sperm, egg, and embryo cryopreservation.
2. **Hope for the Future:** Fertility preservation offers hope to patients who may face infertility due to their medical treatments. It empowers them to envision a future where they can have children, alleviating some of the emotional stress associated with their diagnosis.
3. **Alignment with Medical Standards:** The bill follows the guidelines established by the American Society of Clinical Oncology, ensuring that patients receive care based on the best available medical evidence.
4. **Non-Discrimination:** HB 139 prohibits insurance companies from discriminating based on prior diagnoses or current health conditions, fostering equitable access to care.
5. **Minimal Financial Impact:** While concerns about costs are often raised, studies, including one by the Hawaii State Auditor (Report No. 23-11), indicate that the overall financial impact on insurance premiums would be negligible. The benefits to patients far outweigh the costs associated with providing this coverage.

Many states across the country have already enacted similar legislation, recognizing the importance of fertility preservation in the context of medical treatments. By supporting HB 139, you are not only advocating for the well-being of individuals facing iatrogenic



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infertility but also demonstrating your commitment to addressing the healthcare needs of our community.

In conclusion, I urge you to support HB 139, H.D. 2, which mandates health insurance coverage for fertility preservation procedures for patients at risk of infertility due to medical treatments. Your support will help ensure that these individuals can access vital services without the added burden of financial strain.

Thank you for your attention to this important matter. I appreciate your commitment to improving healthcare in Hawaii.

Sincerely,

Anatte Karmon, MD, FACOG

Reproductive Endocrinology & Infertility
Chief Medical Officer
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www.IVFcenterHawaii.com

March 17, 2025

TO: Hawai'i Senate Committee on Health and Human Services

RE: House Bill 139, Relating to Insurance - SUPPORT

Chair and members of the Committee.

I am Adam Zarrin, the Director of State Government Affairs for the Leukemia & Lymphoma Society. Our organization's mission is to cure blood cancers and improve the quality of life of patients and their families.

On behalf of blood cancer patients and their families, we urge your support of HB 139, which would mandate coverage for fertility preservation services.

When first diagnosed with blood cancer, a patient's primary concern will be their upcoming treatment and long-term survival. They may not initially consider how their treatment could impact their ability to have children in the future. However, chemotherapy and radiation can cause "late" side effects that may appear months or years after treatment.

One of those possible late effects is infertility, the inability to conceive a child without medical intervention. Infertility after treatment can impact both male and female patients of all ages. Treatment must begin quickly, which leaves patients with a difficult choice and little time to appeal to insurers for coverage after a denial of coverage. And regardless of coverage, fertility treatments are expensive. The cost of fertility treatments and annual egg or sperm storage can reach tens of thousands of dollars, making it very challenging for patients to afford these out-of-pocket costs, especially on top of their other cancer treatment bills.

This bill should not trigger any defrayal costs to the state since the [state's benchmark plan](#) already has an infertility benefit. As per the Affordable Care Act (ACA), states must defray the costs of new insurance mandates that establish unique benefits for individual and small group plans that exceed the benefits included in the state benchmark plan. However, states are accorded significant deference to identify when/if defrayal is required. Because Hawaii's Essential Health Benefit (EHB) already includes infertility and In Vitro Fertilization (IVF) coverage, the state could interpret fertility preservation services as part of this existing category of benefits. This would mean the state sees the inclusion of Fertility preservation coverage as a new interpretation of existing EHB-sanctioned benefits rather than as a newly created benefit.

Earlier in this session, amendments were added to the companion to this measure, SB642, to make the measure optional and to exclude the language-granting dependents under the same policy coverage. The auditor's conclusion states, "we included all insureds, including policyholders, plan members, and policyholders' and plan members' spouses and children, without any age restrictions or limitations in our analysis." *We respectfully request that this committee not adopt this language.*

HB 139 is likely not to cause an increase in premiums.



As noted in the [Auditor's Report](#), fiscal analyses for these services from other states that have enacted this coverage have shown that coverage would cost pennies per member per month. The Auditor also noted that "we believe it is unlikely that premiums would increase beyond a minimal amount." According to the California Health Benefits Review Program, 16.9 million Californians would have their insurance expanded, with an estimated price per member and per month cost increase of up to 5 cents. A Hawai'i-based reproductive endocrinology group practice indicated that the total added cost of healthcare for mandated health insurance coverage for standard fertility preservation services as defined in HB 139 would be minimal.

Cancer treatment is stressful enough. Failure to preserve fertility is a common regret that may affect survivors' quality of life. Patients deserve access to affordable fertility preservation services tailored to their needs, empowering them to make the best decisions for themselves and their families. Again, we appreciate the committee's time and consideration of this critical patient concern.

Thank you.



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March 16, 2025

The Honorable Joy San Buenaventura
Chair
Senate Committee on Health and Human Services
Hawaii Senate
Honolulu, HI 96813

RE: Support for HB 139

Dear Chair San Buenaventura and Members of the Senate Health and Human Services Committee:

On behalf of the Alliance for Fertility Preservation (AFP), I am writing to express our strong support for HB 139 and to urge the Senate Committee on Health and Human Services Committee to advance this bill. This legislation will require health insurers to cover fertility preservation treatments such as sperm, egg, and embryo banking for cancer patients before they face necessary, but sterilizing, cancer treatments.

Amendments were added to the Senate companion bill (SB 642) earlier this session, which would make this coverage *optional* and remove individuals under the age of 26 who are covered under the policyholder's health plan from the scope of the bill. Currently, insurers could choose to protect their enrollees by adding fertility preservation coverage to their policies. They have chosen not to do so. Any amendment that makes a this coverage "optional" **We respectfully request that the Committee pass HB 139 without adopting the amendments included in SB 642.**

In November 2023, the Hawaii State Auditor conducted a comprehensive analysis of the fiscal impact of this legislation in Hawaii State Audit Report 23-11 and included all insureds, including policyholders, plan members, and policyholders' and plan members' spouses and children, without any age restrictions or limitations in their analysis. The report found that "it is unlikely that premiums would increase beyond a minimal amount" due to the limited number of patients who would utilize the benefit.

According to the National Cancer Institute, approximately 324 Hawaiians between the ages of 15-39 are diagnosed with cancer each year. Due to improvements in treatment, about 86% these patients will survive. Some cancer treatments including chemotherapy, radiation, and surgery can cause sterility or iatrogenic (medically-induced) infertility. Addressing iatrogenic infertility for age-eligible patients has been considered part of the standard of care by all of the leading clinical organizations for over fifteen years. Without insurance coverage, however, the high out-of-pocket costs for these standard treatments are unaffordable for many patients.

Hawaii's Essential Health Benefit (EHB) benchmark plan already requires insurers to cover infertility and in vitro fertilization. HB 139 would essentially allow newly diagnosed cancer patients access to this existing benefit *before* they begin potentially sterilizing treatments. Currently, these patients do not have a diagnosis of infertility – which takes five years to demonstrate – but eliminating this inapplicable waiting period for those who are facing impending, imminent infertility due to life-saving medical treatments would cure this. We have been pleased to see the Hawaii Medical Service Association (HMSA) and the Hawaii Association of Health Plans (HAHP) testify in support of HB 139 this session.

LATE

For the foregoing reasons, HB 139 should not require Hawaii to pay any defrayal costs. The medically necessary fertility preservation coverage required by HB 139 should be viewed as a component of the current infertility benefit in Hawaii's EHB benchmark plan, rather than a newly-created benefit requiring defrayal.

Hawaii has considered this coverage several times starting in 2011 and the Hawaii State Auditor has issued three reports during that time. In the intervening 14 years, countless young Hawaiian cancer patients have undoubtedly lost their chance for parenthood due to an inability to afford fertility preservation services. We urge Hawaii to join the 18 other states that have established this coverage in law in order to better protect future patients. We respectfully encourage you to pass HB 139.

Sincerely,



Joyce Reinecke
Executive Director