

# HAWAI‘I CIVIL RIGHTS COMMISSION

830 PUNCHBOWL STREET, ROOM 411 HONOLULU, HI 96813 · PHONE: 586-8636 FAX: 586-8655 TDD: 568-8692

March 30, 2017  
Rm. 308, 3:00 p.m.

To: The Honorable Sylvia Luke, Chair  
Members of the House Committee on Finance

From: Linda Hamilton Krieger, Chair  
and Commissioners of the Hawai‘i Civil Rights Commission

Re: S.B. No. 502, S.D.1, H.D.1

The Hawai‘i Civil Rights Commission (HCRC) has enforcement jurisdiction over Hawai‘i’s laws prohibiting discrimination in employment, housing, public accommodations, and access to state and state funded services. The HCRC carries out the Hawai‘i constitutional mandate that no person shall be discriminated against in the exercise of their civil rights. Art. I, Sec. 5.

S.B. No. 502, S.D.1, H.D.1, if enacted, will ensure equal access to in vitro fertilization procedures for all couples, including same-sex couples and male-female couples for whom male infertility is the relevant factor, as well as to women regardless of their marital status.

**The HCRC supports this bill because the current unequal treatment of people seeking medical fertility assistance constitutes discrimination on the basis of sex, sexual orientation and marital status.**

The HCRC has a state civil rights law enforcement interest in eliminating discrimination in employment-based health benefit plans, with jurisdiction and authority to enforce Hawai‘i state fair employment law, which prohibits employers from discriminating on the basis of race, sex, including gender identity or expression, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, or domestic violence or sexual violence victim status, in “compensation or in the terms, conditions, or privileges of employment.” HRS § 378-2(a)(1)(A).

The HCRC therefore supports S.B. 502, S.D.1, H.D.1.



Committees: Committee on Finance  
Hearing Date/Time: Thursday, March 30, 2017, 3:00 p.m.  
Place: Conference Room 308  
Re: *Testimony of the ACLU of Hawaii in **Strong Support** of S.B. 502, S.D. 1, H.D. 1, Relating to In Vitro Fertilization Insurance Coverage*

Dear Chair Luke, Vice Chair Cullen, and Committee Members:

The American Civil Liberties Union of Hawaii (“ACLU of Hawaii”) strongly supports S.B. 502, S.D. 1, H.D. 1, which eliminates discriminatory provisions in current state law by requiring the equal coverage of in vitro fertilization (“IVF”) without regard to sex, sexual orientation, or marital status.

#### Current Hawaii law discriminates against LGBTQ couples and unmarried women

Hawaii’s current law requires health insurance providers to cover one round of IVF only when “the patient’s oocytes are fertilized with the patient’s spouse’s sperm.” While perhaps unintentional, this language necessarily excludes same-sex couples and unmarried women who wish to start a family. S.B. 502, S.D. 1, H.D. 1 remedies this by removing language in the statute requiring the patient to be married, adding language clarifying that same-sex married couples qualify for coverage, and adding language clarifying that IVF procedures using donor materials and surrogates will be covered.

#### Denying health insurance coverage for IVF creates an unfair financial burden

IVF can cost upward of \$20,000 per cycle. While opposite-sex married couples who are able to use the couples’ oocyte and sperm are guaranteed a process to alleviate the majority of the procedure’s cost, **same-sex married couples, unmarried women, and cancer survivors who, as a result of their cancer treatment, require the use of donor oocytes or a surrogate**, may be forced to shoulder the financial burden alone. Although some health insurance plans in Hawaii may cover same-sex female couples and unmarried women, this is not guaranteed by law and many couples and individuals are unaware they are not covered until they are already planning for their family. No insurance plans currently cover male couples who can only conceive using IVF along with the services of a surrogate.

#### S.B. 502, S.D. 1, H.D. 1 is necessary to bring current law in line with state policy

State law prohibits discrimination on the basis of sexual orientation and gender identity in the areas of housing, employment, education, and public accommodations. This measure is

necessary to bring our current IVF mandate up to speed with existing public policy, as well as recommendations made by the medical community regarding equal access to reproductive services for LGBTQ couples.<sup>1</sup> The State decided decades ago that IVF is such an important and necessary treatment for infertility that insurance coverage for IVF should be mandated by law. Having decided this, the State may not lawfully reserve this important benefit to opposite-sex married couples only.

This measure does not create a new benefit

Finally, this measure does not require health insurance providers to cover any procedures that are not already covered. Regardless of whether the IVF procedures are being performed on the subscriber/subscriber's spouse or their surrogate, the covered procedures involved are exactly the same. This measure merely strengthens current law to provide equal access to reproductive services and better reflect Hawaii's core value of equality.

For these reasons, the ACLU urges the Committee to support S.B. 502, S.D.1, H.D. 1.

Thank you for this opportunity to testify.



Mandy Finlay  
Advocacy Coordinator  
ACLU of Hawaii

*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 50 years.*

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<sup>1</sup> The Ethics Committee of the American Society for Reproductive Medicine, *Access to fertility treatment by gays, lesbians, and unmarried persons: a committee opinion*, (published 2013) available at: [https://www.asrm.org/uploadedFiles/ASRM\\_Content/News\\_and\\_Publications/Ethics\\_Committee\\_Reports\\_and\\_Statements/fertility\\_gaylesunmarried.pdf](https://www.asrm.org/uploadedFiles/ASRM_Content/News_and_Publications/Ethics_Committee_Reports_and_Statements/fertility_gaylesunmarried.pdf).



TIM VANDEVEER  
Chair

MARGARET WILLE  
SEAN SMITH  
Legislation Committee Co-Chairs

**In Support of SB 502 SD1 HD1 “Relating to In Vitro Insurance Coverage”**

Rep. Sylvia Luke, Chair  
Rep. Ty J.K. Cullen, Vice Chair  
Committee on Finance

March 30, 2017 3:00 p.m. State Capitol Conference Room 308

**Submitted On Behalf of the Democratic Party of Hawai‘i**

The Democratic Party of Hawai‘i (DPH) strongly supports SB 502 SD 1 HD1. DPH recognizes that in vitro fertilization (IVF) is an important reproductive technology for many couples and individuals who want to have children. Under current law, insurers who provide pregnancy-related benefits are required to provide a one-time benefit for IVF expenses. But the mandate applies only to women with opposite sex spouses, excluding same sex couples and unmarried women. DPH believes the mandate, as written, discriminates unfairly on the basis of sex, sexual orientation, and marital status. This bill amends the IVF insurance mandate, eliminating outdated and discriminatory limitations to ensure coverage equality for sex couples and unmarried women.

This bill is consistent with the Party’s platform, which supports equality for women accessing fertility services and for same sex couples pursuing the same rights and responsibilities as other married couples.

DPH has also passed a resolution specifically calling upon the legislature to “amend Hawaii’s IVF insurance laws to require equal coverage for same-sex couples, including same-sex male couples, and women regardless of marital status.” A copy of the resolution is attached.

**Establishing equal IVF insurance coverage for unmarried women and same sex couples is one of DPH’s legislative priorities for the 2017 legislative session.** We respectfully request that you pass this bill out of committee.

Mahalo for the opportunity to testify on this bill.



Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Tim Vandever', is positioned below the text 'Respectfully submitted,'.

Tim Vandever  
Chair of the Democratic Party of Hawai'i

/s/ Margaret Wille  
/s/ Sean Smith  
Legislative Committee Co-chairs

## **Resolution Urging Amendment of Hawaii's IVF Insurance Statutes to Provide Equal Access to IVF Coverage**

Whereas, Thousands of same-sex couples in Hawai'i are now married since the passage of the Marriage Equality Act in 2013 and same-sex couples are increasingly using reproductive technologies like in vitro fertilization (IVF) to have children; therefore, be it

Resolved, That the Democratic Party of Hawai'i recognizes that IVF is expensive, averaging \$10,000-15,000 per cycle, or about 50% of average annual disposable income in the U.S., and that Sections 431:10A-116.5 and 432:1-604, Hawai'i Revised Statutes, require insurers who cover pregnancy-related benefits to also provide a one-time benefit for expenses arising from in-vitro fertilization (IVF) procedures; and be it

Resolved, That the Democratic Party of Hawai'i understands that this mandate currently only applies to women whose oocytes are fertilized with their husbands' sperm in circumstances where the couple has a history of infertility or infertility associated with certain medical conditions; and be it

Resolved, That the Democratic Party of Hawai'i recognizes the statutes, as written, exclude same sex couples and unmarried women; and be it

Resolved, That the Democratic Party of Hawai'i recognizes that some insurers offer policies that cover same-sex female couples but impose burdens not faced by opposite-sex couples by requiring them to first try intrauterine insemination (IUI), even if that procedure is not covered; and be it

Resolved, That the Democratic Party of Hawai'i recognizes Hawai'i insurers exclude same-sex male couples as they do not cover procedures involving donor oocytes and/or surrogates; and be it

Resolved, That the Democratic Party of Hawai'i recognizes that some but not all Hawaii insurers extend IVF coverage to unmarried women; and be it

Resolved, That the Democratic Party of Hawai'i believes that this constitutes discrimination on the basis of sex, sexual orientation, and marital status; and be it

Resolved, That the Democratic Party of Hawai'i recognizes such discrimination is inconsistent with the Marriage Equality Act, Section 1557 of the Affordable Care Act, and the core values of the Democratic Party of Hawai'i as expressed in its Platform; and be it

Resolved, That the Democratic Party of Hawai'i urges the Hawai'i state legislature to amend Hawaii's IVF insurance laws to require equal coverage for same-sex couples, including same-sex male couples, and women regardless of marital status ; and finally be it

Ordered, That copies of this resolution be transmitted to the Governor of the State of Hawai'i, the Lt. Governor of the State of Hawai'i, and all members of the Hawai'i State Legislatures who are members of the Democratic Party of Hawai'i.

Passed by the Democratic Party of Hawai'i on January 18, 2017



March 30, 2017

To: Representative Sylvia Luke, Chair  
Representative Ty Cullen, Vice Chair and  
Members of the Committee on Finance

From: Jeanne Y. Ohta, Co-Chair

RE: SB 502 SD1 HD1 Relating to In Vitro Fertilization Insurance Coverage  
Hearing: Thursday, March 30, 2017, 3:00 p.m., Room 308

POSITION: Support

The Hawai'i State Democratic Women's Caucus writes in support of SB 502 SD1 HD1 which seeks to amend Hawaii's In Vitro Fertilization (IVF) law to eliminate sex, sexual orientation, and marital status discrimination in insurance coverage.

SB 502 SD1 HD1 is a reproductive justice measure in that it seeks to address insurance coverage which currently discriminates against and essentially restricts a person's reproductive options based on their sex, sexual orientation and/or marital status. This kind of discrimination simply has no place in Hawaii law.

The Hawai'i State Democratic Women's Caucus is a catalyst for progressive, social, economic, and political change through action on critical issues facing Hawaii's women and girls.

We ask the committee to pass this measure and thank the committee for the opportunity to provide testimony.



# The American Society for Reproductive Medicine

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March 29, 2017

Honorable Sylvia Luke  
Chair, Finance Committee  
Hawaii State Capitol, Room 306

Dear Chairwoman Luke and Members of the Finance Committee:

On behalf of the American Society for Reproductive Medicine (ASRM) and the Society for Assisted Reproductive Technology (SART), we are writing to express support for SB 502.

ASRM is a multidisciplinary organization of nearly 8,000 professionals dedicated to the advancement of the science and practice of reproductive medicine. Distinguished members of ASRM include obstetricians and gynecologists, urologists, reproductive endocrinologists, embryologists, mental health professionals and others. SART is an organization of nearly 400 member practices performing more than 95% of the assisted reproductive technology (ART) cycles in the United States. SART's mission is to set and help maintain the highest medical and professional standards for ART. SART works with the ASRM to create practice guidelines and minimum standards of care. SART is also actively involved in the collection of data outcomes from its member programs.

Infertility is a disease of the reproductive system that impairs one of the body's most basic functions: the conception of children. In the United States, infertility affects about 7.3 million women and their partners, or about 12 percent of the reproductive-age population. Due to the myriad of causes of infertility, the numerous implications of the disease, and the devastating effect of the diagnosis, it is vitally important that policymakers work to make combating infertility a priority. As the medical specialists who present treatment options for patients and perform procedures during what is often an emotional time for them, ASRM recognizes how important a means to addressing their medical condition can be for those hoping to build their families.

The State of Hawaii has also recognized the importance of requiring insurance coverage for the treatment of this disease, that recognition first made in 1989. SB 502 would correct shortcomings in the existing statute.

Hawaii's insurance code requires that certain health plans cover the cost of IVF, but historically this has been available only to married couples and has



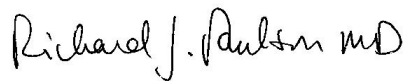
excluded coverage when donor sperm is necessary. This has closed the door on IVF coverage when the infertility diagnosis is due to a severe male factor problem. When the husband has no sperm, or a very poor semen analysis, or when there is a genetic problem which could be inherited from the male, donor sperm is a valid consideration. Severe injury to the male reproductive system can result in the absence of sperm. Sadly, these types of injuries became all too common in wounded soldiers due to the type of warfare used in our recent military conflicts.

Approximately 10% to 15% of men of reproductive age cannot produce sperm. This may be due to a multitude of causes that prevent sperm from reaching the place it needs to go for reproduction to occur. In certain male factor diagnoses, the couple must be informed of the potential associated genetic abnormalities in the sperm and counseled about the option of donor sperm. To be counseled, but not be permitted to select donor sperm as a family building option, is inappropriate. For these medical reasons, it is important that the use of donor sperm be permitted under the Hawaii insurance code.

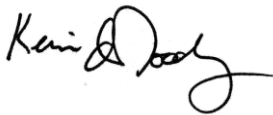
For equity reasons, it is important, as well. The existing statute does not afford same sex married couples diagnosed with infertility access to the IVF benefit. Nor does it provide coverage to single women. SB 502 recognizes the discriminatory nature of the statute and allows these women and couples to have access to this infertility benefit.

ASRM and SART urge the members of the Finance Committee to pass SB 502.

Sincerely,

A handwritten signature in black ink that reads 'Richard J. Paulson MD'.

Richard Paulson, MD  
President, ASRM

A handwritten signature in black ink that reads 'Kevin Doody'.

Kevin Doody, MD  
President, SART



March 29, 2017

Representative Sylvia Luke, Chair  
House Committee on Finance

**Re: S.B. 502, SD1, HD1 Relating to In Vitro Fertilization  
Insurance Coverage**

**Hearing: March 30, 2017, 3:00 pm, Room 308**

Dear Chair Luke and Members of the Committee on Finance:

Hawaii Women Lawyers submits testimony in **support** of S.B. 502, SD, HD1 which removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor.

The mission of Hawaii Women Lawyers is to improve the lives and careers of women in all aspects of the legal profession, influence the future of the legal profession, and enhance the status of women and promote equal opportunities for all.

Hawaii Women Lawyers supports this measure because it eliminates a discriminatory exclusion that bars access to insurance coverage for in vitro fertilization procedures for same sex couples and unmarried women that wish to start a family. S.B. 502, SD1, HD1 ensures that a one-time IVF procedure benefit will extend to all families regardless of marital status, gender or sexual orientation, and without regard to their use of an egg donor or surrogate. This is an important benefit to many people, because IVF services are very expensive and can burden families in a significant way. This bill provides equal coverage for same sex couples and unmarried women, and is important to bringing parity and fair treatment in reproductive health policy.

For these reasons, we support S.B. 502, SD1, HD1 as amended, and respectfully request that the Committee pass this measure. Thank you for the opportunity to submit testimony.



## Hawai'i LGBT Legal Association

March 30, 2017

TO: House Committee on Consumer Protection & Commerce  
FROM: Hawai'i LGBT Legal Association

RE: **Support for S.B. 502 S.D. 1 H.D. 1**

Chair Luke, Vice Chair Cullen, and committee members:

The Hawai'i LGBT Legal Association ("HLLA") is a voluntary professional organization of Hawai'i lawyers, legal workers and law students dedicated to the fair and just treatment of the LGBT community. **HLLA strongly supports S.B. 502 S.D.1 H.D.1.**

HLLA attorneys worked collaboratively with the Hawaii Women's Coalition on the language of this bill. The purpose of the bill is to amend Hawaii's in vitro fertilization (IVF) insurance mandate to require equal coverage for same sex couples and unmarried women.

Currently, the IVF mandate only benefits women with opposite sex spouses. Some Hawai'i insurers independently offer policies that cover female couples or women without male partners, but these policies are not guaranteed by law and not all cover single women. Further, no policies cover male couples; rather, they exclude procedures involving donor eggs and surrogates, which male couples require. While likely not intentional when it was enacted, the effect of the mandate is discriminatory, and it unfairly burdens same sex couples and unmarried women who may pay up to \$20,000 out of pocket for one IVF cycle.

S.B. 502 S.D. 1 ensures equal coverage for unmarried women and same sex couples by:

- Removing language in the statute that requires the involvement of a spouse;
- Adding language to clarify that members of same sex married couples qualify for coverage; and
- Adding additional language to clarify that procedures involving egg donors and surrogates (i.e. procedures required by male couples) will be covered.

The bill also reduces the "wait-period" for establishing infertility from 5 years to 1 year, consistent with the American Society of Reproductive Medicine's definition of "infertility."

S.B. 502 S.D. 1 is not about expanding the IVF mandate. The same types of procedures that were previously covered—i.e. egg retrieval, fertilization, and embryo transfer—will be covered. Rather, the

bill simply corrects outdated, and yes, now discriminatory, sex and marital-status based limitations in the existing mandate to ensure equal access and coverage for same sex couples and unmarried women.

To be clear, this bill will not require insurers to cover new types of procedures that are not already covered, such as collection and processing of semen, cryopreservation of eggs, semen or embryos, genetic testing of embryos, etc. Insurers will not have to cover the costs of donor eggs or semen. And insurers will still only be required to provide a one-time benefit, consistent with the existing mandate.

In addition, while the bill requires insurers to cover IVF procedures involving egg donors and surrogates, it also makes it clear that the mandate will still only require coverage of the same IVF procedures, and that it will not require insurers to cover other pregnancy-related benefits or post-in vitro outpatient services.

S.B. 502 S.D. 1 H.D.1 is straightforward equality measure that has the support of the community and will not cost the state anything. We urge you to support this bill and pass it out of committee.

Thank you for the opportunity to testify on this bill.

Sincerely,

/s/ Nickolas A. Kacprowski

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Nick Kacprowski , Co-President  
Kalikoʻonalani Fernandes, Co-President  
Hawaiʻi LGBT Legal Association



March 29, 2017

House's Committee on Finance  
Hawai'i State Capitol  
415 South Beretania Street, Room 308  
Honolulu, HI 96813

Hearing: Thursday, March 30, 2017 – 3:00 p.m.

RE: **STRONG SUPPORT for Senate Bill 502 SD 1 HD 1 – RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE**

Aloha Chairperson Luke, Vice Chair Cullen and fellow committee members,

We are writing in STRONG SUPPORT to Senate Bill 502 Senate Draft 1 House Draft 1 on behalf of the LGBT Caucus of the Democratic Party of Hawai'i. SB 502 SD 1 HD 1 will remove discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor.

The LGBT Caucus views this bill as a necessity for equality as this bill takes care of some gross inequality in the current insurance coverage with regards to IVF.

This bill is a priority for the LGBT Caucus of the DPH as well as the Democratic Party of Hawai'i. The Caucus was proud to introduce the recently passed DPH resolution "Resolution Urging Amendment of Hawaii's IVF Insurance Statutes to Provide Equal Access to IVF Coverage" that asks for the passage of an inclusive bill just like SB 502 SD 1 HD 1.

We hope you all will support this important piece of legislation.

Mahalo nui loa!



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March 29, 2017

The Honorable Sylvia Luke  
Chair, House Finance Committee  
Hawaii State Capitol  
Honolulu, HI 96813

Re: SB 502

Dear Chairwoman Luke and Members of the Finance Committee:

As the President & CEO of RESOLVE: The National Infertility Association, a nonprofit that represents men and women all over the country who face fertility problems, we support SB 502.

On behalf of the over 28,000 Hawaiians who are trying to overcome the disease of infertility and have children, we urge the House Committee to pass these bills, which update Hawaii's law providing coverage for in vitro fertilization (IVF).

The updates are discussed below:

1. **Removing the five-year waiting period.** The American Society for Reproductive Medicine (ASRM), which is the professional society in this field, defines infertility as the failure to conceive after one year (12 months) of intercourse; earlier evaluation may be justified after six months for women over the age of 35. Hawaii's old requirement of five years is obviously much longer. Waiting five years, however, can materially hurt a woman's chance of conceiving with IVF, because female fertility is time sensitive and beginning around age 32-35, declines quickly.

Hawaii's five-year waiting period is by far the longest waiting period in any of the laws mandating infertility insurance in this country. This bill will bring Hawaii's law in step with other states. And, it will help infertility patients obtain needed treatment on a timely basis.

2. **Eliminating the requirement that only the spouse's sperm may be used.** It makes sense medically to cast off this requirement because more than a third of infertility is caused by “male factor,” that is, a problem with the man’s sperm. Some husbands may also be carriers of a sex-linked disease. If pregnancy can’t be achieved with a husband’s sperm, then patients should be able to use sperm from a donor. Also, same-sex couples and unmarried women may need donor sperm to have a family. The proposed change in the bills will help Hawaiian citizens in these circumstances, too.

The updates are straightforward: they will help bring Hawaii’s law in step with current practice; they improve the quality of care; their goal is equality and non-discrimination; and they are pro-family. We hope you will vote to pass SB 502. .

On behalf of people with infertility who are trying to build families, we support this legislation and urge you to pass it.

Respectfully submitted,

A handwritten signature in black ink that reads "Barbara Collura". The signature is written in a cursive, flowing style with a long horizontal tail on the final letter.

Barbara Collura  
President & CEO



March 30, 2017  
3:00 p.m., Room 308

To: **House Committee on Finance**  
The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair

From: Beth Giesting, Hawai'i Association of Health Plans

**Re: Concerns about SB 502, SD1, HD1, RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE**

The Hawai'i Association of Health Plans (HAHP) thanks you for the opportunity to share concerns about Senate Bill 502, SD1, HD1 which would expand eligibility for covered *in vitro* fertilization services.

HAHP stands firmly with the Legislature in rejecting discrimination based on gender or sexual orientation. Our concerns are as follows:

- While health plans currently cover *in vitro* fertilization benefits for their members, covering services that have so many long-term health, legal, and cost implications for a surrogate – a third-party - who is not otherwise a beneficiary is problematic.
- Reducing the waiting time from five years to 12 months for opposite-sex couples could encourage them to by-pass stepped services that are often effective as well as being less risky, invasive, and expensive.
- The demand and related costs for expanded services as described in this bill are unknown. Insurers would have to assess the impact and build the added costs into employer premiums, which would be done gingerly as we seek to balance essential benefits with the burden to employers.

We appreciate the intent of this bill and look forward to working with lawmakers to ensure that Hawai'i residents continue to have the health benefits they need and that coverage for them is affordable.





An Independent Licensee of the Blue Cross and Blue Shield Association

March 30, 2017

The Honorable Sylvia Luke, Chair  
The Honorable Ty Cullen, Vice Chair  
House Committee on Finance

Re: SB 502, SD1, HD1 – Relating to In Vitro Fertilization Insurance Coverage

Dear Chair Luke, Vice Chair Cullen, and Members of the Committee:

The Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on SB 502, SD1, HD1 which would amend the requirements for mandatory insurance coverage of in vitro fertilization (IVF).

We are aware and empathetic to the situations under which the procedures outlined in this measure would be conducted; HMSA's current IVF policy does not discriminate against sex, sexual orientation, or marriage status. We do, however, have serious concerns with how this Bill may impact members and plans.

The Bill as drafted will require plans to expand coverage for IVF-related services to oocyte (egg) donors or surrogates of any covered member; this would be an expansion of the current benefit under §432:1-604. While we understand the IVF-service itself is not changing, *who* that service/benefit applies to would change. Covering services for an individual who is not a member's spouse or a third party is a significant difference. HMSA's current IVF policy does not cover surrogacy or donors in any form regardless of sex, sexual orientation, or marital status.

Additionally, we have concerns that the addition of egg donors and surrogates to the IVF benefit would introduce unanticipated legal risks. For example, what would our legal obligations be should a surrogate not be a member of the plan covering the IVF service?

Finally, changing the amount of time a member must demonstrate a history of infertility from five years to 12 months is a concern with regard to the necessary time within which OB/GYNs and fertility specialists would need to accurately diagnose infertility.

For the reasons outlined above and others, we request that the Committee consider requiring an auditor's report to reasonably assess the Bill's associated costs, risks, and impact to members, plans and the healthcare system.

Thank you for allowing us to share our concerns on SB 502, SD1, HD1.

Sincerely,

Mark K. Oto  
Director, Government Relations



Testimony of  
John M. Kirimitsu  
Legal & Government Relations Consultant

Before:  
House Committee on Finance  
The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair

March 30, 2017  
3:00 pm  
Conference Room 308

**Re: SB 502, SD1, HD1 Relating to In Vitro Fertilization Insurance Coverage**

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on this bill relating to in vitro fertilization coverage.

**Kaiser Permanente Hawaii opposes the bill as drafted, and would like to request an amendment.**

Kaiser Permanente supports parity of coverage to ensure that the same types of in vitro fertilization procedures that are currently available for a married couple of the opposite sex shall also be extended equally to same-sex couples and women regardless of their marital status.

However, Kaiser Permanente must oppose the bill as drafted, because on its face it expands benefits by requiring health plans to cover additional services, which are not currently covered. Currently, Kaiser Permanente does not cover oocyte donor or surrogacy for any of its members, regardless of sex, sexual orientation or marital status. Therefore, by passing this bill as is, the committee is creating an additional benefit for an additional class, which subverts the intention of the bill which is to create parity.

While Kaiser Permanente acknowledges the good intentions behind expanding in vitro coverage of oocyte donor and surrogacy to the same sex male couple population, this was not the intent of this bill. See Stand. Com. Rep. No. 387 submitted by the House Committee on Health (“[T]his measure is not intended to expand the in vitro fertilization mandate.”). **If this bill does include these additional services of oocyte egg and surrogacy, the cost of these new mandated benefits will undoubtedly raise the cost of delivering health care, thereby resulting in higher premiums and increased cost to the purchasers and payors of health plan coverage, whether they be employer groups or individuals.**

711 Kapiolani Blvd  
Honolulu, Hawaii 96813  
Telephone: 808-432-5224  
Facsimile: 808-432-5906  
Mobile: 808-282-6642  
E-mail: John.M.Kirimitsu@kp.org

Additionally, if this bill will be providing new mandated services, i.e. oocyte egg and surrogates, then Hawaii law requires an impact assessment audit under Sections 23-51 and 23-52 of the Hawaii Revised Statutes, to assess among other things:

- a) the extent to which this mandated insurance coverage would be reasonably expected to increase the insurance premium and administrative expenses of policy holders; and
- b) the impact of this mandated coverage on the total cost of health care.

Lastly, the addition of a new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act, which requires states to defray the additional cost of any benefits enacted after December 31, 2011, in excess of the State's essential health benefits.

Therefore, to remain consistent with the intent of this bill, and to avoid any misinterpretation of the benefits covered under this bill, **Kaiser Permanente requests that this Committee delete references to "oocyte donor" and "surrogate" on Page 3, Lines 2-3.**

Thank you for the opportunity to provide testimony.

To: Hawaii State House Committee on Finance  
Hearing Date/Time: Thursday, Mar. 30, 2017, 3:00 p.m.  
Place: Hawaii State Capitol, Rm. 308  
Re: Testimony of Planned Parenthood Votes Northwest and Hawaii in support of S.B. 502, SD1, HD1, relating to In Vitro Fertilization Insurance Coverage

Dear Chair Luke and Members of the Committee,

Planned Parenthood Votes Northwest and Hawaii (“PPVNH”) writes in support of S.B. 502, SD1, HD1, which seeks to amend Hawaii's IVF law to eliminate sex, sexual orientation, and marital status discrimination in insurance coverage.

S.B. 502 is a reproductive justice measure in that it seeks to address the lack of access and/or unequal access to infertility treatment. In this case, insurance coverage discriminates against and essentially restricts a person’s reproduction based on their sex, sexual orientation and/or marital status. This kind of discrimination simply has no place in Hawaii law.

Thank you for this opportunity to testify in support of S.B. 502, SD1, HD1.

Sincerely,  
Laurie Field  
Hawaii Legislative Director and Public Affairs Manager

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 28, 2017 11:58 AM  
**To:** FINTestimony  
**Cc:** mikegolojuch808@gmail.com  
**Subject:** Submitted testimony for SB502 on Mar 30, 2017 15:00PM

**SB502**

Submitted on: 3/28/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mike Golojuch	Individual	Comments Only	No

Comments: I support SB502 to give equality to all. This is a legislative priority of the Democratic Party of Hawaii.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 28, 2017 3:18 PM  
**To:** FINTestimony  
**Cc:** joshua@joshuakay.com  
**Subject:** Submitted testimony for SB502 on Mar 30, 2017 15:00PM

**SB502**

Submitted on: 3/28/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Joshua Kay	Individual	Support	No

Comments: I support SB502 to remove discriminatory requirements.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 29, 2017 9:11 AM  
**To:** FINTestimony  
**Cc:** emmaharberwhite@gmail.com  
**Subject:** \*Submitted testimony for SB502 on Mar 30, 2017 15:00PM\*

**SB502**

Submitted on: 3/29/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Emily White	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 28, 2017 9:11 PM  
**To:** FINTestimony  
**Cc:** chris@mentzel.com  
**Subject:** \*Submitted testimony for SB502 on Mar 30, 2017 15:00PM\*

**SB502**

Submitted on: 3/28/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Chris Mentzel	Individual	Support	No

Comments:

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Tuesday, March 28, 2017 8:34 PM  
**To:** FINTestimony  
**Cc:** katc31999@gmail.com  
**Subject:** \*Submitted testimony for SB502 on Mar 30, 2017 15:00PM\*

**SB502**

Submitted on: 3/28/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kat Culina	Individual	Support	No

Comments:

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March 29, 2017

Dear Members of the Finance Committee:

This letter is in **ENTHUSIASTIC SUPPORT of SB 502.**

We live in a more tolerant and inclusive world. As such our legislation should conform to today's world. Everyone should have equal access to fertility services.

Fertility treatments are no longer kept secret from friends and family. These treatments are the Standard of Care for treating fertility issues. Over 7- million babies have been conceived using In Vitro Fertilization and many many many more millions of babies have been born using other fertility treatments.

Not everyone has success with infertility treatments but for those who are successful –This is truly a gift of life! Thanks to infertility treatment I am a proud parent of 2 boys and 1 girl. My wife and I underwent multiple infertility treatment cycles prior to doing In Vitro Fertilization (IVF). Our first two IVF cycles were unsuccessful and it was not until the third cycle that we had success. We were lucky! Not only because we were successful but because we had the ability to continue to attempt treatments until we were able to conceive. Every day I look at my children and I am thankful to all of those healthcare providers who helped make our dreams come true.

Having a child and building a family is a fundamental desire and right for all people regardless of relationship status, gender, or sexual orientation. As an infertility provider, I see myself in my patients. I understand their hopes and dreams. I understand their despair when not successful. Through my many years of training and practicing, I also understand that many of my patients would achieve their dream of having family if they were allowed to have treatment.

**I fully and enthusiastically support HB 502 to remove discriminatory requirements and create parity for ALL patients seeking fertility services.** Without it, many of our friends and families will not be able to experience the privilege of having a family –a privilege that many take for granted.

Sincerely and Mahalo,

John L. Frattarelli, M.D., HCLD  
Reproductive Endocrinology and Infertility  
Advanced Reproductive Medicine & Gynecology of Hawaii, Inc.  
&  
Fertility Institute of Hawaii  
1401 South Beretania Street, Ste 250, Honolulu HI 96814  
[www.IVFCenterHawaii.com](http://www.IVFCenterHawaii.com)

**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 29, 2017 2:06 PM  
**To:** FINTestimony  
**Cc:** radamshere2003@yahoo.com  
**Subject:** Submitted testimony for SB502 on Mar 30, 2017 15:00PM

**SB502**

Submitted on: 3/29/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Debra Adams	Individual	Support	No

Comments: THIS IS ONCE AGAIN A MATTER OF EQUAL CIVIL RIGHTS FOR ALL. PLEASE MOVE THIS BILL TO A VOTE AND VOTE YES.

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**From:** mailinglist@capitol.hawaii.gov  
**Sent:** Wednesday, March 29, 2017 2:46 PM  
**To:** FINTestimony  
**Cc:** kimcoco@kimcoco.com  
**Subject:** Submitted testimony for SB502 on Mar 30, 2017 15:00PM

**SB502**

Submitted on: 3/29/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kim Coco Iwamoto	Individual	Support	No

Comments: I write in STRONG SUPPORT of SB 502, SD1, HB1, which seeks to eliminate discrimination in health insurance coverage for in vitro fertilization (IVF) on the basis of sex, sexual orientation, and marital status. Thank you for correcting the current Hawaii Revised Statutes to be more consistent with our state's non-discrimination laws as they cover employment (when health insurance is an employment benefit) and public accommodations (when health insurance is sold and purchased in the stream of commerce.)

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from:  
Stephen and Daniel Tschudi  
1743C 10th Ave  
Honolulu HI 96816  
byjove@hotmail.com

Testimony in SUPPORT of SB502 HD1, relating to in vitro fertilization insurance coverage

Esteemed Members of the Hawaii House Finance Committee:

We wish to offer our testimony in support of Senate Bill 502 (HD1), a common-sense measure to ensure equity of insurance coverage for infertility treatments for prospective parents of all genders and sexual orientations.

The bearing and raising of children is an interest of society as a whole. To the extent that the State becomes involved in related issues, it is proper that the State insure parity of treatment when it comes to rights and responsibilities connected to childbearing, child-rearing, pediatric health, and so forth. This Bill extends equity in insurance coverage to all couples seeking therapy for infertility as well as to single women. As a married same-sex couple, while we do not plan to become parents, we appreciate the extension of equitable treatment under the law. Therefore we wish to offer this testimony in support of this legislation, even if changes to the current draft are made, as long as the legislation achieves its stated purpose.

Yours sincerely and respectfully,

Stephen Tschudi  
Daniel Tschudi







From: mailinglist@capitol.hawaii.gov  
 Sent: Wednesday, March 29, 2017 9:32 PM  
 To: FINTestimony  
 Cc: kale489@yahoo.com  
 Subject: Submitted testimony for SB502 on Mar 30, 2017 15:00PM

**SB502**

Submitted on: 3/29/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Kale Taylor	Individual	Support	No

Comments: I write in strong support of S.B. 502, S.D.1 H.D.1, which seeks to eliminate discrimination in health insurance coverage for in vitro fertilization (IVF) on the basis of sex, sexual orientation, and marital status. For many individuals and couples, IVF is their only hope when it comes to having children. Unfortunately, the procedure can be extremely expensive — up to \$20,000 per cycle. Current Hawai'i law requires insurance providers to cover expenses relating to IVF procedures for heterosexual married couples only, leaving unmarried women and LGBT couples at a significant disadvantage when planning their families. S.B. 502, S.D.1 H.D.1 remedies this unfair — and potentially unlawful — discrimination by requiring IVF coverage on an equal basis without regard to sex, sexual orientation, or marital status. I support S.B. 502, S.D.1 H.D.1, and respectfully ask that the Committee approve this measure.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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TO: House Committee on Finance  
FROM: Sean Smith  
DATE: March 30, 2017  
RE: Support for SB 502 SD1 HD1

**LATE**

I write in **strong support of SB 502 SD1 HD1**, which seeks to amend the IVF insurance mandate to ensure equal coverage for same sex couples and unmarried women.

My husband Kale and I recently had a baby boy using IVF. We have wanted a child for a long time, and as a same-sex couple, this was the only option available for us to have a biological child.

The cost was substantial. IVF alone cost about \$17,000 for the first cycle. And totaling up all expenses, including donor fees, legal fees, surrogate fees and agency fees, we estimate that we spent over \$80,000 having our son Charlie.

We willingly bore the cost but it has not been easy. Our parents contributed funds and we took out a second mortgage on our home. It is frustrating to know that our insurance would not cover the cost of the IVF procedures, especially since it does cover IVF procedures for other couples.

This is a straightforward non-discrimination bill. It has broad community support and almost no opposition. It will not cost the state anything.

I respectfully request that you pass this bill

Sean Smith

**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, March 29, 2017 9:07 PM  
To: FINTestimony  
Cc: fosters005@hawaii.rr.com  
Subject: Submitted testimony for SB502 on Mar 30, 2017 15:00PM

**SB502**

Submitted on: 3/29/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Foster	Hawaii Advocates For Consumer Rights	Support	No

Comments: Please support SB 502 SD 1 HD 1 "In Vitro Fertilization" which will remove discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor. Mahalo fort you support of this legislation so important to women in their child-bearing years.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, March 29, 2017 9:05 PM  
To: FINTestimony  
Cc: fosters005@hawaii.rr.com  
Subject: Submitted testimony for SB502 on Mar 30, 2017 15:00PM

**SB502**

Submitted on: 3/29/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
Scott Foster	The Kupuna Caucus of the Democratic Party of Hawaii	Support	No

Comments: Please support SB 502 SD 1 HD 1 "In Vitro Fertilization" which will remove discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor. Mahalo fort you support of this legislation so important to women in their child-bearing years.

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**LATE**

From: mailinglist@capitol.hawaii.gov  
Sent: Wednesday, March 29, 2017 7:01 PM  
To: FINTestimony  
Cc: rustyinpuna@gmail.com  
Subject: \*Submitted testimony for SB502 on Mar 30, 2017 15:00PM\*

**SB502**

Submitted on: 3/29/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

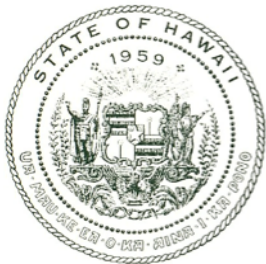
Submitted By	Organization	Testifier Position	Present at Hearing
Russell F. Jones	Individual	Support	No

Comments:

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HAWAII  
STATE  
COMMISSION  
ON THE  
STATUS  
OF  
WOMEN



Chair  
LESLIE WILKINS

COMMISSIONERS:

SHERRY CAMPAGNA  
CYD HOFFELD  
JUDY KERN  
MARILYN LEE  
AMY MONK  
LISA ELLEN SMITH

Executive Director  
Cathy Betts, JD

Email:  
Catherine.a.betts@hawaii.gov  
Visit us at:  
humanservices.hawaii.gov  
/hscsw/

235 S. Beretania #407  
Honolulu, HI 96813  
Phone: 808-586-5758  
FAX: 808-586-5756

March 29, 2017

To: Representative Sylvia Luke, Chair  
Representative Ty Cullen, Vice Chair  
Members of the House Committee on Finance

From: Cathy Betts, Executive Director  
Hawaii State Commission on the Status of Women

Re: Testimony in Support, SB 502, SD1, HD1, Relating to In Vitro  
Fertilization Insurance Coverage

**LATE**

On behalf of the Hawaii State Commission on the Status of Women, I would like to express my support my support for SB 502, SD1, HD1, which would revise the HRS 431, 10A-116.5 to allow equal coverage for in vitro fertilization treatment and procedures.

Individuals and couples are widely affected by infertility and IVF, for many, represents the only hope of having a child. IVF can be extremely expensive and cost prohibitive. Our changing demographics and the breadth of diversity found in families should be reflected in our policies. The current statute, as written, requires a woman to show 5 years of difficulty getting pregnant in order to receive coverage for infertility and requires the sperm of her spouse. Additionally, the statute prohibits lesbian and gay couples, unmarried couples, single women, and women whose male partners suffer from infertility from obtaining coverage. This is inherently discriminatory on its face. SB 502, SD1, HD1 removes this discriminatory language from our state statutes and would provide for equal access to fertilization treatment and procedures.

The Commission strongly supports SB 502, SD1, HD1. Thank you for this opportunity to testify in support of this measure.

**LATE**

From: mailinglist@capitol.hawaii.gov  
 Sent: Thursday, March 30, 2017 8:56 AM  
 To: FINTestimony  
 Cc: hiabbybrown@gmail.com  
 Subject: \*Submitted testimony for SB502 on Mar 30, 2017 15:00PM\*

**SB502**

Submitted on: 3/30/2017

Testimony for FIN on Mar 30, 2017 15:00PM in Conference Room 308

Submitted By	Organization	Testifier Position	Present at Hearing
AbigailAu	Individual	Support	No

Comments:

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Thursday, March 30, 2017 at 3:00 P.M.  
Conference Room 308

**LATE**

healthy  
mothers  
healthy  
babies

COALITION  
OF HAWAII

**To:** The Honorable Sylvia Luke, Chair  
The Honorable Ty J.K. Cullen, Vice Chair  
Members of the House Committee on Finance

**From:** Lisa Kimura, Executive Director, Healthy Mothers Healthy Babies of Hawaii

**Re:** **Testimony in Strong Support of S.B. 502 S.D.1 H.D.1**

Good morning members of the House Committee on Finance,

**Healthy Mothers Healthy Babies Coalition of Hawaii (HMHB) is writing in strong support of S.B. 502 S.D.1 H.D.1**, which would remove discriminatory requirements for mandatory insurance coverage of in vitro fertilization (IVF) procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor.

Current Hawaii law requires insurance providers to cover expenses relating to IVF procedures for heterosexual married couples only, leaving unmarried women and LGBT couples at a significant disadvantage when planning their families.

**IVF can cost upward of \$20,000 per cycle.** While opposite-sex married couples are guaranteed a process to alleviate the majority of the procedure's cost, same-sex married couples and unmarried women may be forced to shoulder the financial burden alone. Although some health insurance plans in Hawaii may cover same-sex female couples and unmarried women, this is not guaranteed by law and many couples and individuals are unaware they are not covered until they are already planning for their family. No insurance plans currently cover male couples who can only conceive using IVF along with the services of a surrogate.

**S.B. 502 S.D.1 H.D.1 remedies this unfair — and potentially unlawful — discrimination** by requiring IVF coverage on an equal basis without regard to sex, sexual orientation, or marital status. We hope to pass S.B. 502 S.D.1, to **eliminate discrimination in health insurance coverage for IVF** on the basis of sex, sexual orientation, and marital status.

Thank you for supporting **S.B. 502 S.D.1 H.D.1** and for the opportunity to submit testimony.