

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
DEPARTMENT OF COMMERCE AND CONSUMER AFFAIRS
KA 'OIHANA PILI KĀLEPA
335 MERCHANT STREET, ROOM 310
P.O. BOX 541
HONOLULU, HAWAII 96809
Phone Number: (808) 586-2850
Fax Number: (808) 586-2856
cca.hawaii.gov

NADINE Y. ANDO
DIRECTOR | KA LUNA HO'OKELE

DEAN I. HAZAMA
DEPUTY DIRECTOR | KA HOPE LUNA HO'OKELE

Testimony of the Department of Commerce and Consumer Affairs

Before the
Senate Committees on Commerce and Consumer Protection
and
Ways and Means
Wednesday, February 26, 2025
10:00 a.m.
State Capitol, Conference Room 211 & via Videoconference

On the following measure:
S.B. 642, S.D. 1, RELATING TO INSURANCE

WRITTEN TESTIMONY ONLY

Chair Keohokalole, Chair Dela Cruz, and Members of the Committees:

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 to require all health insurance policies, contracts, plans, and agreements issued or renewed after 12/31/2025, to provide optional 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 2 through 4 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. This bill proposes to define the medical necessity of any treatment in accordance with a specific standard, “current guidelines developed by the American Society of Clinical Oncology,” which is not consistent with the HRS section 432E-1.4 standard.

Thank you for the opportunity to testify.



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

ON THE FOLLOWING MEASURE:

S.B. NO. 642, S.D. 1, RELATING TO INSURANCE.

BEFORE THE:

SENATE COMMITTEES ON COMMERCE AND CONSUMER PROTECTION AND ON
WAYS AND MEANS

DATE: Wednesday, February 26, 2025 **TIME:** 10:00 a.m.

LOCATION: State Capitol, Room 211

TESTIFIER(S): **WRITTEN TESTIMONY ONLY.**

(For more information, contact Andrew I. Kim,
Deputy Attorney General, at 808-554-7014)

Chairs Keohokalole and Dela Cruz and Members of the Committees:

The Department of the Attorney General provides the following comments.

This bill requires all health insurance policies, contracts, plans, and agreements issued or renewed after December 31, 2025, to provide optional 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 optional 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 1-8: "'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 4, line 19, to page 5, line 2: "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, lines 12-19: "'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, lines 18-21, and page 5, lines 8-11, "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, lines 18-19, 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 8-11, 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 10-12: "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 1-3, 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 avoid any issues regarding impairment of existing contracts and 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."

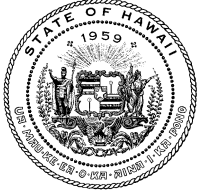
Lastly, this bill would require Qualified Health Plans to offer certain benefits. A Qualified Health Plan is an insurance plan that meets the requirements of the Affordable Care Act and is certified by the Health Insurance Marketplace. Under 45 C.F.R. § 155.170, a state may require a Qualified Health 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.



**STATE HEALTH PLANNING
AND DEVELOPMENT AGENCY**
DEPARTMENT OF HEALTH - KA 'OIHANA OLAKINO

JOSH GREEN, M.D.
GOVERNOR OF HAWAII
KE KIA'ĀINA O KA MOKU'ĀINA 'O HAWAII

KENNETH S. FINK, MD, MGA, MPH
DIRECTOR OF HEALTH
KA LUNA HO'OKELE

JOHN C. (JACK) LEWIN, M.D.
ADMINISTRATOR

February 21, 2025

To: Senate Committee on Ways and Means
Senator Donovan Dela Cruz, Chair;
Senator Sharon Moriwaki, Vice Chair; and

Senate Committee on Commerce and Consumer Protection
Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair; and
Honorable Members

From: Jack Lewin MD, Administrator, SHPDA

Regarding: **SB642 SD1 - RELATING TO INSURANCE**

Hearing: February 26, 2025 @ 10:00 am

Position: SUPPORT

Testimony:

SHPDA supports the intent of this legislation, which requires all health insurance policies, contracts, plans, and agreements issued or renewed after 12/31/2025, to provide optional coverage for standard fertility preservation services for persons undergoing medically necessary treatment that may cause iatrogenic infertility.

This kind of coverage for individuals who have infertility risks following chemotherapy, radiation therapy or other medical procedures, and which often have side effects with high risk of creating iatrogenic infertility has become commonly available across the country.

SHPDA has reviewed this issue with our consumer/clinician constituents on our 12 advisory councils statewide who believe this kind of coverage needs to be offered here to those relatively few individuals of reproductive age for whom this is a critically important issue.

We defer to the insurance industry and DCCA on costs that may be incurred, but believe this protection is rapidly become standard of care for those affected, and therefore should become available to patients here. It is also a means of reducing birth-

related defects that could potentially result from ovarian radiation exposure in some therapeutic circumstances.



February 21, 2025

Senator Donovan M. Dela Cruz, Chair, Chair
Senator Sharon Y. Moriwaki, Vice Chair
Senate Committee on Ways and Means

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection

Re: S.B. 642, SD 1 Relating to Insurance

**Hearing: Wednesday, February 26, 2025, 10:00 AM, Room 211 & Via
Videoconference**

Dear Chair Dela Cruz, Vice Chair Moriwaki, Chair Keohokalole, and Vice Chair Fukunaga,
and the Members of the Committees on Ways and Means and Commerce and Consumer
Protection:

Hawaii Women Lawyers is a lawyer's trade organization that aims 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 submits testimony in **support of S.B. 642, S.D. 1**, which seeks to
require all health insurance policies, contracts, plans, and agreements issued or renewed
after December 31, 2025 to provide optional coverage for standard fertility preservation
services for persons undergoing medically necessary treatment that may cause iatrogenic
infertility.

For individuals undergoing treatments such as chemotherapy, radiation, or surgery for
cancer and other life-threatening conditions, fertility preservation is not just a luxury – it is a
necessary medical intervention. However, without insurance coverage, the high costs
associated with procedures such as egg and sperm freezing place an often-insurmountable
financial burden on patients, forcing many to forego fertility preservation altogether. If
passed, this bill could ensure that patients are not forced to choose between their health in
the immediate present and their future ability to have biological children.

We very much appreciate the Legislature's efforts to align policy with medical best practices
and we applaud the Legislature's determination to protect the reproductive rights and future
family-building options of countless individuals in the State of Hawaii.

We did note that the Department of Commerce and Consumer Affairs' Insurance Division submitted comments regarding certain technical aspects of the bill and specifically with respect to ensuring the provisions would work in harmony with existing statutes. We trust that the Legislature will address all such comments appropriately so that there are no unintentional consequences vis a vis existing statutes.

For the above reasons, we strongly support S.B. 642, S.D. 1 and respectfully request that the Committees pass this measure.

Thank you for the opportunity to testify in strong support of this measure



BOARD OF DIRECTORS:

Glenn Schattman, MD
Chairman
Nanette Elster, JD
Diego Ezcurra
Peter Nagy, PhD
Gwen Quinn, PhD
Lindsay Beck, MBA
Jennifer Levine, MD
Joy Lewin
Joanna Rudnick
Carrie Salem
Kristin Smith
David Stern
Lynn Westphal, MD

Executive Director:
Joyce Reinecke, JD

February 24, 2025

The Honorable Jarrett Keohokalole
The Honorable Donovan Dela Cruz
Committee on Commerce and Consumer Protection
Committee on Ways and Means
Hawaii Senate
Honolulu, HI 96813

RE: Advance SB 642 as introduced

Dear Chair Keohokalole, Chair Dela Cruz and Members of the Committees:

On behalf of the Alliance for Fertility Preservation (AFP), I am writing to express our views on SB 642 and to urge the Senate Committees on Commerce and Consumer Protection and Ways and Means to advance this bill *as introduced*. We are opposed to the amendment added by the Senate Health and Human Services Committee making this coverage optional. We believe making this coverage optional undermines the purpose of this bill and will only reinforce the status quo in Hawaii leaving many cancer patients unable to afford to preserve their fertility before they undergo necessary, but potentially sterilizing, cancer treatments.

The AFP is a national 501(c)(3) organization dedicated to expanding fertility preservation information and resources for patients facing potential infertility caused by cancer treatments. 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.

SB 642 would require individual and group health insurance policies to cover standard fertility preservation services such as sperm, egg, and embryo banking for those at risk. 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.

And while the costs faced by an individual patient are significant, the costs across a population of insureds is extremely low. In November 2023, the Hawaii State Auditor analyzed the fiscal impact of this legislation in Hawaii State Audit Report 23-11. 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. We have been pleased to see the Hawaii Medical Service Association (HMSA) and the Hawaii Association of Health Plans (HAHP) testify in support of SB 642 this session.

Further, Hawaii’s Essential Health Benefit (EHB) benchmark plan already contains coverage for infertility and in vitro fertilization. SB 642, as introduced, 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.

For the foregoing reasons, SB 642 should not require Hawaii to pay any defrayal costs. The medically necessary fertility preservation coverage required by SB 642 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 support SB 642 as introduced.

Sincerely,



Joyce Reinecke
Executive Director



February 24, 2025

Senator Keohokalole, Chair
Senator Dela Cruz, Chair
Senate Committee on Commerce and Consumer Protection
Senate Ways and Means Committee
Conference Room 211, Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

Dear Chair Keohokalole, Chair Dela Cruz, and Members of the Senate Committee Commerce and Consumer Protection and Committee on Ways and Means,

The Hawaii Society of Clinical Oncology (HSCO) and the Association for Clinical Oncology (ASCO) are pleased to support SB 642, which, **as introduced**, would provide coverage of fertility preservation services for Hawaii patients with cancer. We are concerned that the Health and Human Services Committee amendment to SB 642 making the coverage optional would threaten patients' ability to start families after treatment.

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.

Fertility preservation is not typically a covered benefit; the HHS amendments reinforce the status quo, leaving most patients without the financial means to make important family planning decisions before treatment. We strongly encourage you to pass the bill as introduced 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

February 24, 2025

RE: Senate Bill 642, 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 SB 642, as introduced, which mandates coverage for fertility preservation services.

We encourage passage of the introduced version because we are concerned that the Health and Human Services Committee amendment to SB 642 will make coverage optional. This threatens patients' ability to start families after treatment.

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.

In addition, SB 642 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. As noted by the Auditor, "we believe it is unlikely that premiums would increase beyond a minimal amount."

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 individual needs, which will empower 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.

Please support SB 642 as introduced. Thank you.

Testimony of
John M. Kirimitsu
Counsel

LATE

Senate Committee on Ways and Means
The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Morikawa, Vice Chair
and
Senate Committee on Commerce and Consumer Protection
The Honorable Jarrett Keohokalole, Chair
The Honorable Carol Fukunaga, Vice Chair

February 26, 2025
10:00 am
Conference Room 211
Via Videoconference

SB 642 SD1 Relating to Insurance

Chairs, Vice Chairs, 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 1-9, 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 **most recent** 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 professional guidelines established by the American Society of Clinical Oncology.~~ "Standard fertility preservation services" do not include:

Thank you for your consideration.

February 26, 2025

The Honorable Donovan M. Dela Cruz, Chair
The Honorable Sharon Y. Moriwaki, Vice Chair
Senate Committee on Health and Human Services

Re: SB 642 SD1 – RELATING TO INSURANCE

Dear Chair Dela Cruz, Vice Chair Moriwaki, and Members of the Committee:

Hawaii Medical Service Association (HMSA) supports SB 642 SD1, which requires all health insurance policies, contracts, plans, and agreements issued or renewed after 12/31/2025, to provide optional coverage for standard fertility preservation 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 and/or will have to face medically intense treatments that could risk future fertility can focus on strengthening their health and well-being can still have the opportunity to also 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



February 25, 2025

LATE

Subject: This letter is in **ENTHUSIASTIC SUPPORT of SB 642** –as initially introduced for **MANDATORY (not optional)** Health Insurance Coverage for Fertility Preservation Procedures in Patients Experiencing Iatrogenic Infertility

Dear Chairs Dela Cruz and Keohokalole, Vice Chairs Moriwaki and Fukunaga, and Honorable Committee Members:

We highly urge the removal of the “Optional” amendment. We strongly recommend that the Legislature pass the bill as ‘MANDATORY’ as initially introduced.

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 642, 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.

Iatrogenic infertility is preventable. As a 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 **SB 642**, 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.

SB 642 is crucial legislation that aims to support individuals facing iatrogenic infertility by ensuring access to vital **fertility preservation techniques such as 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 utilized many years later with the same reproductive success realized for decades using frozen sperm and embryos.

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

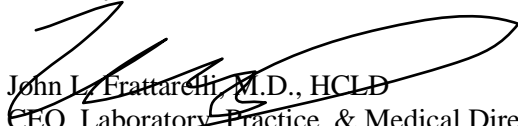
A common argument against providing insurance coverage for fertility preservation is the associated cost. However, the reality is that the treatments causing iatrogenic infertility, such as chemotherapy or radiation, are extremely expensive. In comparison, the cost of fertility preservation procedures 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.

Numerous states have already embraced this legislation. By supporting SB 642, 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 SB 642, 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,



John J. Frattarelli, M.D., HCLD
CEO, Laboratory, Practice, & Medical Director
Fertility Institute of Hawaii &
Advanced Reproductive Medicine & Gynecology of Hawaii, Inc.
1585 Kapiolani Blvd, STE 1800, Honolulu, HI 96814
www.IVFCenterHawaii.com

February 26, 2025

To: Chair Dela Cruz, Chair Keohokalole, Vice Chair Moriwaki, Vice Chair Fukunaga and Members of the Senate Committees on Ways and Means & Commerce and Consumer Protection (WAM/CPN)

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: February 26, 2025; 10:00 a.m./Conference Room 211 & Videoconference

Re: Testimony in SUPPORT of SB 642 SD1 – Relating to Fertility Preservation

The Hawaii Association of Health Plans (HAHP) supports SB 642 SD1. 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 strongly 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 SB 642 SD1.

Sincerely,

HAHP Public Policy Committee
cc: HAHP Board Members

Senator Donovan Dela Cruz, Chair
Senator Sharon Moriwaki, Vice Chair
Senate Committee on Health and Human Services

Senator Jarrett Keohokalole, Chair
Senator Carol Fukunaga, Vice Chair
Senate Committee on Commerce and Consumer Protection

Hearing Date: Wednesday, February 26, 2025

ACS CAN COMMENTS on SB 642 SD1 – RELATING TO INSURANCE

Cynthia Au, Government Relations Director – Hawaii Guam
American Cancer Society Cancer Action Network

Thank you for the opportunity to **COMMENT** on SB 642 SD1: 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 SUPPORTS THE INTENT of the bill for further discussion. We OPPOSE the insertion of “optional” amendment, which is contrary to the intent of the legislation.

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.

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 comments. 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/>



February 25, 2025

Dear Honorable Committee Chair and Committee Members:

Subject: Strong Support for SB 642 – Health Insurance Coverage for Fertility Preservation

I am writing to express strong support for **SB 642** and urge you to remove the “optional” amendment, making the bill **mandatory** as it was originally introduced.

The cost of fertility preservation can be overwhelming for people undergoing medical treatments that might cause infertility. These treatments are often necessary for saving lives, but the financial burden of preserving fertility is too much for many patients to bear. However, when shared across all insured individuals, the cost is minimal. A report from the Hawaii State Auditor in November 2023 confirmed that mandating fertility preservation coverage would not significantly raise insurance premiums.

This bill would make fertility preservation available to patients facing infertility due to treatments like chemotherapy or radiation. The option to preserve fertility can give these patients hope and a future family, which is especially important as many patients survive life-threatening conditions but face infertility.

Having first-hand experience for a family member with terminal cancer, this coverage is so crucial. It gives patients a chance to conceive in the future, to have a family, which is something many of us may take for granted. With 13 years’ experience in the field, *Helping to Create New Beginnings* is so very special to our many patients as well.

SB 642 would ensure patients have access to fertility-saving procedures like sperm, egg, and embryo freezing. These procedures have been proven safe, and many children have been born through these methods over the years. Unfortunately, many patients can't afford these procedures on their own.

While some argue that the cost of coverage is a concern, it’s important to note that the treatments causing infertility, like chemotherapy, are much more expensive. Providing fertility preservation is a small cost compared to these life-saving treatments.

Several states have already passed similar laws. By supporting SB 642, you will be helping individuals who deserve a chance to preserve their fertility and create families after surviving serious health issues. Without this support, many patients who survive cancer or other serious illnesses may never have the opportunity to have children, which is something many of us take for granted.

Please support this bill to provide critical health insurance coverage for those who need it most. Again, I urge you to consider making this mandatory, and not optional, for all.

Thank you for your consideration.

Sincerely,

Robyn A. Washousky, MBA

CAO, Fertility Institute of Hawaii

www.IVFcenterHawaii.com

LATE

LATE

January 27th 2025

Subject: This letter is in **SUPPORT of SB 642** 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 Committee Members:

As a fertility specialist that treats cancer patients utilizing fertility preservation therapies, I believe fertility preservation is critical to cancer care. Therefore, we 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. Males 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. Males and Females 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. Females 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.



1401 S. Beretania
Street Suite 250
Honolulu HI 96817
(808) 545-2800

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

LATE

LATE



Feb 25, 2025

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

I strongly urge the removal of the “Optional” amendment and recommend passing SB 642 as **MANDATORY**, as originally introduced.

Fertility preservation is a critical medical need for patients undergoing treatments that may cause infertility. Yet, financial barriers prevent many from accessing it. The Hawaii State Auditor’s November 2023 report (No. 23-11) on SB 642 confirmed that mandating coverage would have only a negligible impact on insurance premiums, given the limited number of qualifying individuals.

At The Fertility Institute of Hawaii, we witness firsthand the challenges faced by patients diagnosed with cancer and other serious illnesses. Treatments like chemotherapy, radiation, and surgery can irreversibly impact fertility. While medical advancements provide solutions such as egg, sperm, and embryo cryopreservation, many patients cannot afford these options due to lack of insurance coverage.

Imagine being diagnosed with cancer and told you must begin treatment immediately. In addition to processing this life-changing news, you are informed that your treatment may leave you infertile. If you wish to preserve your fertility, you must quickly secure thousands of dollars—an impossible burden for many. As a result, too many patients are forced to forgo fertility preservation, leaving them with no options for family-building after survival.

The ability to have children should not be dictated by financial means. Fertility preservation is not elective—it is essential. Just as we prioritize cancer treatment and survival, we must also support survivors’ futures, which for many includes the dream of starting a family.

Some may argue that insurance coverage is too costly, yet the medical treatments causing infertility—chemotherapy, radiation, and surgery are already expensive. In comparison, the cost of fertility preservation is minimal. This is not just about cost, it is about **equitable access to care**, and ensuring patients can focus on their health without the added burden of losing their future ability to have a family.

I urge you to support SB 642, removing financial barriers to fertility preservation for those undergoing life-saving treatments. Here in Hawai’i, ‘ohana is at the heart of our culture. By passing this bill, we uphold this value, ensuring that everyone has the opportunity to create their own ‘ohana.

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

LATE

LATE



Subject: This letter is in SUPPORT of **SB 642** as a request for **Mandatory (not optional)** Health

Insurance Coverage for Fertility Preservation Procedures in Patients experiencing
Iatrogenic Infertility

Dear Legislative committee,

I am writing to support the legislative bill SB 642 which would require insurance companies to cover fertility preservation for patients with a diagnosis or treatment that can cause iatrogenic infertility. However, **we strongly urge the removal of “optional” amendment and recommend the Legislature to pass the bill as “MANDATORY” as it was initially introduced.** When patients receive a diagnosis that requires treatment that will affect their fertility and family building goals due to iatrogenic infertility their emotional and mental load of working through this diagnosis is significantly exacerbated. They not only need to care for their new diagnosis, but now have to navigate the reality that their family building goals may be nonexistent after treatment. However, the tools exist to preserve their fertility to decrease the emotional toll this may have and allow them to focus completely on treating their given diagnosis or treatment plan. The largest rate limiting step we see for patients is the financial burden of fertility preservation. The cost out of pocket is not only large, but they have to provide these funds within days in order to preserve their fertility in a timely manner to move forward with their other treatment. The option to preserve fertility after treatments such as chemotherapy and/or radiation is often not possible due to the detrimental effect of therapy on egg quality.

These patients require a multifunctional team of providers to approach their treatment to ensure that their care encompasses current and future effects of the treatment. Fertility preservation is a vital component of this treatment if a patient will have a true chance at building a family post-therapy. The technology and treatment is here for these patients, but it's not accessible for most due to costs. Without insurance to cover fertility preservation we are not properly treating a patient with what should be the standard of care.

Sincerely,

Kaitlin Corbett, PA-C

Kaitlin Corbett, PA-C

Fertility Institute of Hawaii &
Advanced Reproductive Medicine & Gynecology of Hawaii, Inc.

1585 Kapiolani Blvd, Suite 1800, Honolulu HI, 96814

www.IVCenterhawaii.com