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**Subject:** \*Submitted testimony for SB2909 on Feb 7, 2014 09:00AM\*  
**Date:** Thursday, February 06, 2014 3:16:28 PM

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**SB2909**

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Roisin Marron	Fertility Institute of Hawaii	Support	No

Comments:

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January 30, 2014

Dear Senators, Honorable Committee Chair and Committee Members:

This letter is in **SUPPORT** of SB 2909 and HB 2355.

Approximately 15% of the US population has difficulty conceiving and are given the diagnosis of infertility. For many people with infertility, the dream of having a family will never be realized. The 85% of the US population without infertility are indeed very blessed but often do not realize how blessed they truly are.

Infertility treatments are no longer experimental or taboo. Infertility treatments are no longer kept secret from friends and family. These treatments are the Standard of Care for treating infertility. Over 4 million babies have been conceived using In Vitro Fertilization and many many many more millions of babies have been born using other infertility treatments.

There are many etiologies for infertility. Some are easily diagnosed and treated and others require more advanced technologies. I have been lucky enough to practice in two other states with mandated infertility coverage (Maryland and New Jersey). In those states, patients are able to progress from lesser infertility treatments such as ovulation induction and artificial insemination to In Vitro Fertilization. As an infertility provider, I have seen first hand that the type of coverage that is outlined in SB615 offers patients the greatest chance to achieve their dream of having a family.

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 two boys and I am thankful to all of those healthcare providers who helped make our dreams come true.

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 continue treatment.

**I fully and enthusiastically support HB 2355.** Without it, many of our friends and families will not be able to experience the privilege of having a family –a privilege that many without infertility take for granted.

Sincerely and Mahalo,

John L. Frattarelli, M.D.

Reproductive Endocrinology and Infertility

Advanced Reproductive Medicine & Gynecology of Hawaii, Inc.

&

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**Date:** Thursday, February 06, 2014 12:26:11 PM

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**SB2909**

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

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

Comments: As an individual who works at a local fertility clinic, expanding the treatments options through equality in insurance coverage for patients diagnosed with infertility, is vital to those who want to start a family, but cannot. I stand in support of my comments not only as an employee, but also as a woman who has gone through infertility treatment herself.

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**SB2909**

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

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

Comments: I am in favor of SB 2909, which Provides insurance coverage equality for women who are diagnosed with infertility by making available to them expanded treatment options and ensuring adequate and affordable health care services.

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**Subject:** Submitted testimony for SB2909 on Feb 7, 2014 09:00AM  
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**SB2909**

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

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

Comments: I support this bill.

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TO: COMMITTEE ON HEALTH  
The Honorable Josh Green, Chair  
The Honorable Rosalyn H. Baker, Vice Chair

COMMITTEE ON COMMERCE AND CONSUMER PROTECTION  
The Honorable Rosalyn H. Baker, Chair  
The Honorable Brian T. Taniguchi, Vice Chair

SUBJECT: **SB 2909 – RELATING TO IN VITRO FERTILIZATION COVERAGE**

Hearing: Friday, February 7, 2014  
Time: 9:00 a.m.  
Place: Conference Room 229

FROM: Piilani Smith

This testimony is in **strong support of S.B. 2909** with one amendment. SB 2909 provides for in vitro fertilization coverage equality for women diagnosed with infertility by requiring non-discriminatory coverage and ensuring quality of care in the diagnosis and treatment of infertility. Certainly, since the passage and enactment of this Hawai'i mandated benefit in 1987, nearly 27 years ago, S.B 2909 addresses the blatant discrimination by the State of Hawai'i and the Health plans to wrongfully deny its female members of an employers health plan equal access to its members health benefits.

This bill is the result of my personal experience of discrimination by the state and HMSA. I am the author of this legislation.

SB2909 makes the following necessary changes that are timely and withstand legal and medical scrutiny:

1. A lifetime benefit of three in vitro fertilization cycles or a live birth.
  - AMENDMENT #1 – delete “lifetime” to read...*A benefit of three in vitro fertilization cycles or a live birth.*
2. Getting rid of the marital status requirement.
3. Defines “infertility” consistent with the American Society of Reproductive Medicine (ARSM).
4. Recognizes that infertility is a disability that is protected under the American with Disabilities Act.
5. Updates the present law with National standards of medical conditions of infertility consistent with Center for Disease Control reporting.

Comments:

1. The benefit of three in vitro fertilization cycles includes a limiting factor of a live birth. This is reasonable, with its aim on increasing the odds of having a child when diagnosed with a medical condition of infertility. Should a live birth occur

anywhere in the process of accessing the three IVF cycles benefit, the members IVF mandated benefit is exhausted. By increasing the IVF cycles to three cycles, the odds of pregnancy increase yet are not guaranteed. The same can be said for other treatments, which have no guarantee yet are afforded to those diagnosed with cancer and other diseases.

**Amendment #1** - delete "lifetime" to comply with PHS §2711 (no limit rule)

The Affordable Care Act and the Reconciliation Act amended the provisions of the Public Health Service Act (PHS Act) relating to group health plans and health insurance issuers in the group and individual markets. Section 2711 of the Public Health Service Act (PHS Act), generally prohibits group health plans and health insurance issuers offering group or individual health insurance coverage from imposing lifetime or annual limits on the dollar value of essential health benefits (as defined in section 1302(b) of the Affordable Care Act). Essential Health Benefits must include items and services within at least ten categories and each state may include certain state mandates. In Vitro Fertilization coverage is an Essential Health Benefit (EHB) as reported by CMS and as an essential health benefit (EHB), is subject to the provisions of PHS Section 2711 prohibiting limits. Therefore, more specifically, the "one time only" or "life time" limit in the current IVF coverage law and SB2909 is prohibited. However, it would appear that the limitation of three cycles or life birth would not violate the prohibition.

2. Marital status has no bearing to the treatment of a medical diagnosis and condition of infertility. The present Hawai'i IVF mandated benefit for 27 years has been and continues to impose religious dogma related to marital status, thus creating two classes of members, violating ACA Title 45 of the Code of Federal Regulations Part 156, 445 CFR §156.200(e) of the Federal Register Vol. 78 No. 37 (Feb. 25, 2013) and discriminatorily providing IVF treatment of infertility to one class of female members who are married and prohibiting another class of female members who are single, divorced, widowed, or never married the same IVF health benefit, while charging both classes for female members for such benefit.

Certainly, the health plans are aware of such discrimination and have been wrongfully collecting on two classes of members while resting of this discriminatory law. For 27 years, the women of Hawaii with employer health plans have endured this two class discrimination. From personal experience, HMSA aggressively denies its 2<sup>nd</sup> class female health plan members pre-authorization for IVF, as well as the denying the members right to appeals on the medical benefit due to failure of meeting the "administrative" requirement of marriage or civil union. In addition, this creation of two classes predicated on marital status violates an individuals right of Religious Freedom.

Certainly, the marriage requirement cannot stand legal scrutiny of constitutionality of Equal Rights, Religious Freedom and the Affordable Care Act.

HMSA denies that they are in violation of these laws and regulations, by resting on the present antiquated discriminatory Hawaii IVF mandated law.

3. With infertility defined as a disease, those who struggle with an infertility diagnosis are given the considerations of infertility as a medical condition and serious medical treatment verses, random applications of treatment.
4. Under the Americans with Disabilities Act (ADA), reproduction is considered a major life activity, and thus one cannot be discriminated against. Equal treatment is required.
5. The medical conditions allowed under the present Hawaii IVF mandate are limiting and discriminate and are randomly applied. There are multiple considerations that are recognized by the U.S. Center for Disease Control in which all Fertility Clinics are required to report on. These categories are reasonable and medically sound as they provide for treatment of infertility under broad categories directly tied to the reproductive system.

I ask that this committee pass this bill with Amendment #1 (as stated here) which after 27 years, speaks to the rightful treatment of women to access and receive adequate and quality medical care without discrimination, bringing the Hawaii IVF mandated health benefit in compliance with state and federal laws regulations and policies.



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**SB2909**

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Amber Brewer	Individual	Support	No

Comments: I support this bill.

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**SB2909**

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

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

Comments: I am in support of this bill!

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**Subject:** Submitted testimony for SB2909 on Feb 7, 2014 09:00AM  
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**SB2909**

Submitted on: 2/6/2014

Testimony for HTH/CPN on Feb 7, 2014 09:00AM in Conference Room 229

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Litasha Johnson	Individual	Support	No

Comments: I am writing this letter in support of SB 2909 in regards to invitro fertilization. I believe that by passing this bill, you will be giving hope to those who thought that having children of their own. Working for a fertility clinic, I get to see firsthand the struggles that women face. I have been blessed to be able to conceive naturally, however, I understand the physical, financial, psychosocial, and emotional toll our patients face, especially those who are infertile and cannot afford IVF. I believe in equally for all women, so why should insurance companies be able to discriminate against them just because they don't meet their criteria. All women should be afforded the same rights, privilege, and coverage. Mahalo, Litasha Johnson

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