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**Testimony of the Department of Commerce and Consumer Affairs**

**Before the  
Senate Committee on Health and Human Services  
Monday, February 13, 2023  
1:00 p.m.**

**State Capitol, Conference Room 225 and via Videoconference**

**On the following measure:  
S.B. 1446, RELATING TO INSURANCE**

Chair San Buenaventura and Members of the Committee:

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

The purpose of this bill is for policies, contracts, plans, agreements, and plan contracts issued or renewed after December 31, 2023, to require insurers, mutual benefit societies, and health maintenance organizations to provide coverage for standard fertility preservation services.

We note that it is unclear whether the amendments in sections 1 through 3 of this bill, which require health plans to provide benefits for the cost of standard fertility preservation services, 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."

Testimony of DCCA

S.B. 1446

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For the Committee's information, Hawaii Revised Statutes section 23-51 provides, in part, that "[b]efore any legislative measure that mandates health insurance coverage for specific health services, specific diseases, or certain providers of health care services as part of individual or group health insurance policies, [*sic*] can be considered, there shall be concurrent resolutions passed requesting the auditor to prepare and submit to the legislature a report[.]"

Thank you for the opportunity to testify on this bill.

**SB-1446**

Submitted on: 2/12/2023 8:47:29 AM

Testimony for HHS on 2/13/2023 1:00:00 PM

| <b>Submitted By</b> | <b>Organization</b>                        | <b>Testifier Position</b> | <b>Testify</b>         |
|---------------------|--|---------------------------|------------------------|
| Adam Zarrin         | Testifying for Leukemia & Lymphoma Society | Support                   | Written Testimony Only |

Comments:

Good afternoon, Chair and members of the Health and Human Services Committee.

My name is Adam Zarrin, and I am 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.

We are here on behalf of blood cancer patients and their families to testify in support of SB1446, relating to insurance and mandating coverage for fertility preservation services.

When first diagnosed with blood cancer, a patient’s primary concern will be their upcoming treatment and long-term survival.

They may not be thinking about whether they can or want to have children in the future—or how their treatment could impact their chances of conception.

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.

And 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.

Current costs of fertility treatments and egg and sperm annual storage can add up to tens of thousands of dollars, making it very challenging for patients to afford these out of pockets costs, especially on top of their other cancer treatment bills.

Cancer treatment is stressful enough.

We can make it easier for cancer patients with the passage of SB1446.

Failure to preserve fertility is a common regret that may affect survivors' quality of life.

And patients deserve the opportunity to access affordable fertility preservation services. It should meet their individual experience and set them up to make the best choice for their and their family's future.

Again, we appreciate the committee's time and consideration of this critical patient concern.

Thank you.



February 13, 2023

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

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: February 13, 2023; 1:00 p.m., Conference Room 225/Videoconference

**Re: Testimony in opposition to SB 1446 – Relating to Insurance**

The Hawaii Association of Health Plans (HAHP) is providing testimony in opposition to SB 1446, which creates new mandates requiring coverage for standard fertility preservation.

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.

HAHP believes this bill conflicts with HRS §431:10A-116.5, which outlines current in vitro fertilization procedure coverage. We would like to respectfully request that this bill be deferred or that the State Auditor first conduct an impact assessment report pursuant to HRS 23-51 and 23-52. The bill as currently written would create new mandated benefits that would increase costs for our members.

Thank you for the opportunity to testify on SB 1446.

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members

AlohaCare | HMAA | HMSA | Humana | HWMG | Kaiser Permanente | MDX Hawaii | Ohana Health Plan | UHA Health Insurance | UnitedHealthcare

[hahp.org](http://hahp.org) | 818 Keeaumoku Street, Honolulu, HI 96814 | [info@hahp.org](mailto:info@hahp.org)



February 13, 2023

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

Re: SB 1446 – Relating to Insurance

Dear Chair San Buenaventura, Vice Chair Aquino, and Committee Members:

Hawaii Medical Service Association (HMSA) appreciates the opportunity to provide comments on SB 1446, which requires insurers, mutual benefit societies, and health maintenance organizations to provide coverage for standard fertility preservation services.

At HMSA we provide in vitro fertilization benefits to our members, including qualifying women over 18 a of age regardless of their marital status. While HMSA appreciates the intent of this measure, we believe that as currently written this bill creates a new section in HRS related to fertility preservation and would create new mandated benefits which would increase costs for our members.

Therefore, we would like to respectfully request that, should this bill move forward, the State Auditor conduct an impact assessment report first pursuant to Section 23-51 and 23-52 of the Hawaii Revised Statutes.

Thank you for the opportunity to testify on this measure. Your consideration of our comments is appreciated.

Sincerely,

Jennifer A. Diesman  
Senior Vice President  
Government Policy and Advocacy

Testimony of  
John M. Kirititsu  
Legal and Government Relations Consultant

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

February 13, 2023  
1:00 pm  
Videoconference & Conference Rm. 225

### **SB 1446 Relating to Insurance**

Chair, Vice Chair, and committee members, thank you for this opportunity to provide testimony on SB 1446.

#### **Kaiser Permanente Hawaii would like to offer comments.**

Since this bill purports to mandate new coverage, an impact assessment report is *statutorily required* under Sections 23-51 and 23-52 of the Hawaii Revised Statutes. Furthermore, any addition of a new mandated coverage may trigger section 1311(d)(3) of the federal Patient Protection and Affordable Care Act, which would require the State to defray the cost.

If this bill moves forward, Kaiser Permanente requests an amendment to exclude third party Assisted Reproduction Technology (ART) procedures, including donor egg and/or surrogates and gestational carriers because of the complex legal issues and inherent medical risks relating to third party participants and any services relating to cryopreservation storage since the patient requesting cryopreservation services is required to execute an agreement with the selected cryobank for storage services, which may include amongst other things: transport (chain of custody) and storage procedures, withdrawal and consent to release to any other designated agent, storage fees, etc.

Thank you for your consideration.



February 13, 2023

The Honorable Joy San Buenaventura  
Senate Committee on Health and Human Services  
Hawaii State Capitol  
415 South Beretania St.  
Room 225  
Honolulu, HI 96813



Dear Chair San Buenaventura and Members of the Committee,

The Hawaii Society of Clinical Oncology (HSCO) and the Association for Clinical Oncology (ASCO) are pleased to support **SB 1446**, which would provide coverage of fertility preservation services for Hawaii patients with cancer. We encourage this committee to vote the bill forward to the Senate.

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 a national organization representing physicians who care for people with cancer. With nearly 45,000 members, our core mission is to ensure that cancer patients have meaningful access to high-quality, equitable cancer care.

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

We encourage providers to advise patients regarding potential threats to fertility as early as possible in the treatment process to allow for the widest array of options for fertility preservation. HSCO and ASCO strongly support SB 1446 and encourage the Committee to pass it to make Hawaii the 13<sup>th</sup> state to cover 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 Aaron Segel at ASCO at [aaron.segel@asco.org](mailto:aaron.segel@asco.org).

Sincerely,



Michael Carney, MD  
President  
Hawaii Society of Clinical Oncology

A handwritten signature in black ink, reading "Lori J. Pierce, MD". The signature is written in a cursive, flowing style.

Lori J. Pierce, MD, FASTRO, FASCO  
Chair of the Board  
Association for Clinical Oncology