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Testimony of the Department of Commerce and Consumer Affairs

**Before the
House Committee on Finance
Friday, February 21, 2025
2:00 p.m.**

State Capitol, Conference Room 308 & via Videoconference

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

Chair Yamashita and Members of the Committee:

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

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

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

Finally, Hawaii Revised Statutes (HRS) section 432E-1.4 sets forth standards for medical necessity. 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.



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

ON THE FOLLOWING MEASURE:

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

BEFORE THE:

HOUSE COMMITTEE ON FINANCE

DATE: Friday, February 21, 2025

TIME: 2:00 p.m.

LOCATION: State Capitol, Room 308

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

Chair Yamashita and Members of the Committee:

The Department of the Attorney General provides the following comments.

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

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

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

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

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

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

"medical treatment with a likely side effect of infertility as established by the American Society of Clinical Oncology" means any cancer-related medical treatment with a likely side effect of infertility. See Report No. 23-11 on pages 10-11. The report noted that the American Society of Clinical Oncology guidelines have not published a list of medical treatments that may result in a patient being at risk for infertility since 2006. See id. Accordingly, we also recommend that page 2, line 19, to page 3, line 2, be amended as follows: "'Medically necessary treatment that may directly or indirectly cause iatrogenic infertility' means any cancer-related medical treatment with a likely side effect of infertility [~~as established by the American Society of Clinical Oncology~~]." Likewise, page 5, lines 14-17, should be amended, as follows: "'Medically necessary treatment that may directly or indirectly cause iatrogenic infertility' means any cancer-related medical treatment with a likely side effect of infertility [~~as established by the American Society of Clinical Oncology~~]."

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

Additionally, pursuant to section 23-51, Hawaii Revised Statutes (HRS), "[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, can be considered, there shall be concurrent resolutions passed [adopted] requesting the auditor to prepare and submit to the legislature a report that assesses both the social and financial effects of the proposed mandated coverage." Although the Auditor completed Report No. 23-11, "Study of Proposed Mandatory Health Insurance Coverage for Standard Fertility Preservation Services," that report was based on S.B. No. 1446, Regular Session of 2023, which is largely similar to this bill, but contains differences with respect to the

definition of "standard fertility preservation services." For this reason, we recommend including a new section with the following wording in this bill to exempt the bill from the audit requirement set forth in section 23-51, HRS: "Section 23-51, Hawaii Revised Statutes, shall not apply to this Act."

Furthermore, 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."

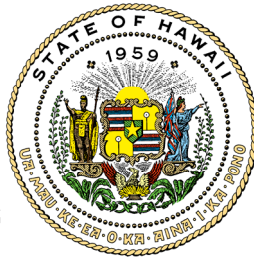
Lastly, this bill would require Qualified Health Plans to provide coverage for standard fertility preservation services for persons undergoing medically necessary treatment that may cause iatrogenic infertility. A Qualified Health Plan is an insurance plan that meets the requirements of the Affordable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

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

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

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

Thank you for the opportunity to provide comments.



HOUSE COMMITTEE ON FINANCE
The Honorable Kyle T. Yamashita, Chair
The Honorable Jenna Takenouchi, Vice Chair

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

Hearing: Friday, February 21, 2025, 2:00 p.m.

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

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

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



January 29, 2025

Representative Kyle Yamashita, Chair
House Committee on Finance
Room 308, Hawaii State Capitol
415 South Beretania St.
Honolulu, HI 96813

Dear Chair Yamashita and Members of the House Committee on Finance,

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

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

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

We encourage providers to advise patients regarding potential threats to fertility as early as possible in the treatment process to allow for the widest array of options for fertility preservation. HSCO and ASCO strongly support HB 139 and encourage the Committee to pass this bill as a key step to ensure coverage of fertility preservation services for patients with cancer. If you have questions or would like assistance on any issue involving the care of individuals with cancer, please contact Sarah Lanford at ASCO at Sarah.Lanford@asco.org.

Sincerely,

Michael Carney, MD
President
Hawaii Society of Clinical Oncology

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

HB-139-HD-2

Submitted on: 2/20/2025 5:08:29 AM

Testimony for FIN on 2/21/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lisa Peabody	FORCE: Facing Our Risk of Cancer Empowered	Support	Written Testimony Only

Comments:

February 20, 2025

Re: Please Support **HI HB 139**

Dear Esteemed Finance Committee Members,

On behalf of FORCE (Facing Our Risk of Cancer Empowered), a national nonprofit organization that represents families facing hereditary cancers, and our Hawaii constituents, I am writing to express strong support for HB 139. HB 139 would facilitate in Hawaii individual and group health insurance coverage for fertility preservation for those facing infertility, including those dealing with a medical diagnosis or treatment that may impair their ability to have children.

Patients dealing with a frightening diagnosis—who are about to begin lifesaving, but potentially sterilizing treatments—have to make urgent, difficult decisions about their future hopes of becoming a parent. Similarly, women with an inherited genetic mutation predisposing them to ovarian cancer are advised to undergo surgery to remove their ovaries and fallopian tubes to avoid this deadly disease. For these individuals, fertility preservation is the only means available to protect their reproductive capability and may be the only viable option to build a biological family. Without coverage for fertility services, patients cannot afford these procedures and fees and will face permanent, involuntary infertility.

Fortunately, this legislation would give many residents in Hawaii confronting this dilemma, assurance that they have insurance coverage for effective, evidence-based options for preserving their fertility before their surgery or initiation of cancer therapy and pursue future interventions to realize their dream of having children. These fertility preservation treatments are consistent with national guidelines issued by leading medical associations including the American Society of Clinical Oncology (ASCO) and the American Society for Reproductive Medicine (ASRM).

FORCE has a strong presence throughout Hawaii. Members of our community facing cancer are desperate for a glimmer of hope to help them preserve the option of having children. We respectfully ask you to help patients facing infertility by supporting HB 139.

I appreciate your consideration. Please don't hesitate to contact me should you have any questions.

Sincerely,
Lisa Peabody
Advocacy Manager
lisapeabody@facingourrisk.org



February 20, 2025

TO: Hawai'i House Committee on Finance

RE: House Bill 139, Relating to Insurance - SUPPORT

Chair and members of the Committee.

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

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

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

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

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

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

As noted in the [Auditor's Report](#), fiscal analyses for these services from other states that have enacted this coverage have shown that coverage would cost pennies per member per month. The Auditor also noted that "we believe it is unlikely that premiums would increase beyond a minimal amount."

Cancer treatment is stressful enough. Failure to preserve fertility is a common regret that may affect survivors' quality of life. Patients deserve access to affordable fertility preservation services



tailored to their needs, empowering them to make the best decisions for themselves and their families. Again, we appreciate the committee's time and consideration of this critical patient concern.

Thank you.



February 20, 2025

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

Dear Chair Yamashita, Vice Chair Takenouchi, and Honorable Committee on Finance Members:

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

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

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

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

1. Sperm can be cryopreserved. When thawed and used, frozen sperm has the same reproductive fidelity as fresh sperm. Frozen sperm has been utilized as a fertility treatment for decades without any adverse findings on offspring.
2. Embryos using In Vitro Fertilization (IVF) can be cryopreserved for years. Eggs can be harvested and fertilized with sperm. The resulting embryos can be cryopreserved indefinitely. Over the last 45+ years, over 15 million children have been born using IVF procedures.
3. Eggs (oocytes) can be harvested utilizing In Vitro Fertilization cryopreserved and subsequently utilized many years later with the same reproductive success realized for decades using frozen sperm and embryos.

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

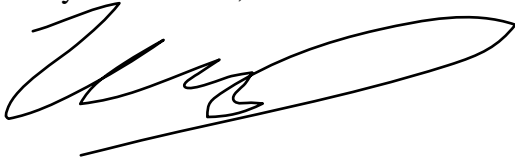
A common argument against providing insurance coverage for fertility preservation is the associated cost. However, the reality is that the treatments causing iatrogenic infertility, such as chemotherapy or radiation, are extremely expensive. In comparison, the cost of fertility preservation procedures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

Numerous states have already embraced this legislation. By supporting HB 139, you are championing the welfare of our 'ohana and showcasing your dedication to fulfilling the needs of your constituents. Therefore, we urge you to support HB 139, which would mandate health insurance coverage for fertility preservation procedures for certain people diagnosed with cancer or other conditions that would adversely affect their fertility. This bill would ensure that these patients would not bear the financial burden of fertility preservation treatment. Without it, many of our friends and families who survive these iatrogenic infertility-causing diagnoses will not be able to experience the privilege of having a family – a freedom many take for granted.

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

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

Sincerely and Mahalo,

A handwritten signature in black ink, appearing to read 'John L. Frattarelli', written in a cursive style.

John L. 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 21, 2025

To: Chair Yamashita, Vice Chair Takenouchi, and Members of the House Committee on Finance (FIN)

From: Hawaii Association of Health Plans Public Policy Committee

Date/Location: February 21, 2025; 2:00 pm/Conference Room 308 & Videoconference

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

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

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

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

Sincerely,

HAHP Public Policy Committee

cc: HAHP Board Members



Committee on Finance
Rep. Kyle Yamashita, Chair
Rep. Jenna Takenouchi, Vice Chair

Hearing Date: Friday, February 21, 2025

ACS CAN SUPPORTS HB 139 HD2: RELATING TO INSURANCE.

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

Thank you for the opportunity to **SUPPORT** HB 139 HD2: Relating to Insurance.

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

ACS CAN supports requiring insurance plans to cover standard fertility preservation services for cancer patients and survivors. Cancer is a scary experience. Coverage of fertility services provides options for cancer survivors to have biological children even after treatment has resulted in temporary or permanent infertility, allowing those impacted by cancer to focus their efforts where they belong—on getting better. All individuals should have equitable access to quality cancer care and an equal opportunity to live a full life.

For these reasons, fertility treatments become an important medical question for many young cancer patients. Costs for fertility treatment are a significant barrier for many patients and services are often not covered by insurance.

In 2025, an estimated 9,550 children (ages 0 to 14 years) and 5,140 adolescents (ages 15-19 years) will be diagnosed with cancer in the United States.ⁱ About 80,000 young adults aged 20 to 39 are diagnosed with cancer each year in the United States.ⁱⁱ The incidence rate of childhood cancer in Hawaii has been rising over the past ten years. The treatments received by many of these children

and young adults may directly impact their ability to produce children. Children and teenagers who have cancer may have surgery or get treatments that can damage their growing and maturing organs, and some can affect their hormone and sexual development. Cancer treatments in their younger years can affect fertility later in life.ⁱⁱⁱ Young adults with cancer may also experience issues with fertility related to their cancer and cancer treatment. The problems might be caused by:

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

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

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

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

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

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

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

^{iv} Ibid.

^v Ibid.

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



To: Chair Yamashita, Vice Chair Takenouchi & Members of the House Finance Committee

From: Oncology Nursing Society

Date: February 21, 2025

RE: Support HB139 – Ensure Cancer Patient Access to Fertility Care

On behalf of the Oncology Nursing Society (ONS) and the 218 oncology nurse members in the state of Hawaii, we would like to express our strong support for HB139, which would require state-regulated health plans to provide coverage for standard fertility preservation services for men and women undergoing cancer treatments, which may cause infertility. We believe this legislation is critical in ensuring that oncology patients are able to pursue reproductive care following their cancer treatment.

Oncology nurses witness firsthand the profound emotional, physical, and psychological toll that a cancer diagnosis and treatment can take on a person. In addition to the immediate focus to beat the disease, many patients face the daunting prospect of iatrogenic (treatment-related) infertility once their treatment is finished.

Iatrogenic infertility is infertility that results as a side effect of medical treatments, particularly those used in oncology. For patients undergoing chemotherapy or radiation therapy, particularly in the pelvic region, or for individuals undergoing surgery for certain cancers, these life-saving treatments can inadvertently damage the reproductive organs or alter hormone levels, leading to permanent infertility. In many cases, this infertility is a direct result of the very treatments intended to save lives, making it particularly tragic and avoidable with proper preventive measures.

The loss of fertility options can be as devastating as the cancer diagnosis itself for our patients, particularly for young adults and individuals of reproductive age who may have planned for families in the future. For those who survive cancer, the option of fertility preservation offers hope. By undergoing fertility preservation – such as egg, sperm, or embryo freezing – before beginning their cancer treatments, patients have an opportunity to preserve their ability to have biological children in the future.

Unfortunately, for many whose insurance does not cover these services, the high cost of fertility preservation can be an insurmountable barrier. This financial burden should not exist for patients who are already battling for their lives. HB139 would ensure that patients have the option to build their biological family in the future, without being burdened by costs that may otherwise be prohibitive.

We thank you for your attention to this important matter and encourage you to support HB139. Should you require any further information or wish to discuss our support, please feel free to contact healthpolicy@ons.org

###

ONS is a professional association that represents the over 100,000 oncology nurses in the United States and is the professional home to more than 35,000 members. ONS is committed to promoting excellence in oncology nursing and the transformation of cancer care. Since 1975, ONS has provided a professional community for oncology nurses, developed evidence-based education programs and treatment information, and advocated for patient care, all in an effort to improve the quality of life and outcomes for patients with cancer and their families.



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February 20, 2025

The Honorable Kyle Yamashita
Committee on Finance
Hawaii House of Representatives
Honolulu, HI 96813

RE: HB 139 – Support

Dear Chair Yamashita and Members of the Committee:

On behalf of the Alliance for Fertility Preservation (AFP), I am writing to express our strong support for HB 139 and to urge the House Committee on Finance to advance this bill. 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.

HB 139 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 HB 139 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.

Further, Hawaii’s Essential Health Benefit (EHB) benchmark plan already contains coverage for infertility and in vitro fertilization. HB 139 would essentially allow newly diagnosed cancer patients access to this existing benefit *before* they begin potentially sterilizing treatments. Currently, these patients do not have a diagnosis of infertility – which takes five years to demonstrate – but eliminating this inapplicable waiting period for those who are facing impending, imminent infertility due to life-saving medical treatments would cure this.

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

Hawaii initially considered this coverage in 2011. 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 HB 139.

Sincerely,

A handwritten signature in blue ink, reading "Joyce Reinecke". The signature is fluid and cursive, with a long horizontal flourish at the end.

Joyce Reinecke
Executive Director

Support HB 139 to Protect Parenthood After Cancer

Give young adult Hawaiian cancer patients hope by providing access to treatments that will protect their ability to have biological children in the future.



The National Cancer Institute estimates

324

Adolescent and Young Adult Hawaiians between the ages of 15-39 will be diagnosed with cancer this year.



The Need

Some cancer treatments can directly or indirectly cause medically-induced infertility.

Chemotherapy, radiation and surgery can damage gametes (eggs and sperm), reproductive organs, and/or endocrine functioning; they may also impact the ability to carry a pregnancy.

Because the damage is generally caused by treatments and not the disease, it can affect patients with many types of cancer.

Infertility is not merely a medical complication; it permanently affects reproduction and parenthood – fundamental life functions worthy of the highest levels of protection.

The Challenge

Patients facing infertility have recognized, effective options for preserving fertility, but the high cost is often a barrier.

Expenses can range from several hundred dollars for sperm banking to approximately \$15,000 for egg banking.

Without insurance coverage, these standard treatments are unaffordable for many patients.

Patients often have a short window of time to obtain the resources necessary to preserve fertility before starting potentially-sterilizing cancer treatment.

The Solution

HB 139 by Representative Sean Quinlan

Requires individual and group health insurance policies to cover fertility preservation services for a patient who will receive a medically necessary treatment, including surgery, chemotherapy or radiation that may directly or indirectly cause impaired fertility.

Fertility preservation services must be standard procedures consistent with professional guidelines established by the American Society of Clinical Oncology.

Hawaii State Audit Report 23-11 found that "it is unlikely that premiums would increase beyond a minimal amount" since such a limited number would qualify for coverage.





February 21, 2025

The Honorable Kyle T. Yamashita, Chair
The Honorable Jenna Takenouchi, Vice Chair
House Committee on Finance

Re: HB139 HD2 - RELATING TO INSURANCE

Dear Chair Yamashita, Vice Chair Takenouchi, and members of the committee,

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

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

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

Thank you for the opportunity to testify on this measure.

Sincerely,

Dawn Kurisu
Assistant Vice President
Community and Government Relations

The Honorable Kyle T. Yamashita, Chair
The Honorable Jenna Takenouchi, Vice Chair
Finance House Committee

HB139 HD2
Friday, February 21, 2025, 10:00 am
VIA VIDEOCONFERENCE Conference Room 308, State Capitol
415 South Beretania Street

I support HB139 for insurance carriers to provide standard fertility preservation services.

I am Caesare Santiago, a mother and Citizen of Hawaii. At the age of 39, I was diagnosed with colorectal cancer. The news was devastating; I can only imagine how much more devastating it would be for younger individuals. The additional side effects relating to the reproductive system could and most likely would hinder you from the opportunity to experience your childhood dream of parenthood is a double whammy. Allowing for options to provide standard fertility preservation services would allow for a perceived life milestone dream to stay alive, adding to the quality of life for survivors.

My experience has me in full support of HB139 for insurance carriers to provide standard fertility preservation services.

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

Sincerely and Mahalo,

Caesare Santiago

HB-139-HD-2

Submitted on: 2/20/2025 10:16:07 AM

Testimony for FIN on 2/21/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Victoria Hill	Individual	Support	Written Testimony Only

Comments:

Full coverage for fertility preservation should be offered to anyone who wants or needs it, and should not be decided by insurance companies.



ADVANCED REPRODUCTIVE
MEDICINE & GYNECOLOGY



FERTILITY INSTITUTE
O F H A W A I I

Subject: This letter is in **SUPPORT OF HB139** as a request for Mandatory Health Insurance Coverage for Fertility Preservation procedures for patients experiencing Iatrogenic Infertility.

February 20, 2025

Dear Legislative committee,

I am writing to support the legislative bill which would request the auditor to assess the effects of mandating insurance companies to cover fertility preservation for patients experiencing iatrogenic infertility secondary to cancer and other diagnoses. We see many patients that want to build a family following diagnosis and treatment. Medical treatments, including chemotherapy and radiation, can be detrimental to fertility for both men and women. This makes building a family after such treatment very difficult, if not impossible.

When we treat patients, we need to treat every aspect of the disease. This includes adverse reactions to detrimental but necessary treatment. We have the technology to preserve fertility for these patients and give them the possibility of building a family in the future. It is unacceptable that there is not insurance coverage for this.

We are seeing far more cancer survivors, which is great! However, these patients are often left with the desire to have a family but are unable to. We need to help make this a covered benefit for our patients.

Thank you for your consideration,

Chandra Marsh, PA-C

Fertility Institute of Hawaii

HB-139-HD-2

Submitted on: 2/20/2025 11:14:06 AM

Testimony for FIN on 2/21/2025 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
April Woofter	Individual	Support	Written Testimony Only

Comments:

Subject: Strong Support for HB 139 – Ensuring Insurance Coverage for Fertility Preservation in Patients Facing Iatrogenic Infertility

Dear Chair Yamashita, Vice Chair Takenouchi, and Honorable Committee on Finance Members,

Fertility preservation is a crucial and necessary option for individuals undergoing medical treatments that may compromise their reproductive health. As a fertility specialist, I have seen firsthand the emotional and psychological toll that the risk of infertility takes on patients. I strongly urge your support for HB 139, which seeks to mandate health insurance coverage for fertility preservation procedures for those facing iatrogenic infertility due to medical treatments like chemotherapy and radiation.

Advancements in modern medicine have significantly increased survival rates for many serious conditions, including cancer. However, the treatments necessary to save lives often have the unintended consequence of permanently impairing fertility. For young patients of reproductive age, this reality compounds the emotional burden of their diagnosis. Providing them with the opportunity to preserve their fertility before beginning treatment ensures they have the chance to build a family in the future—a fundamental aspect of life that many take for granted.

The ability to freeze sperm, eggs, and embryos before undergoing treatment offers a pathway to future parenthood. These fertility preservation methods are well-established, safe, and widely practiced:

1. **Sperm Cryopreservation** – A simple and effective process that allows men to store sperm for future use without compromising its viability.
2. **Egg Cryopreservation** – Women can have their eggs retrieved and frozen, preserving their reproductive potential for years to come.
3. **Embryo Cryopreservation** – Using in vitro fertilization (IVF), fertilized eggs can be cryopreserved indefinitely, with proven success in helping individuals achieve pregnancy.

Despite the effectiveness of these procedures, many patients are unable to afford them due to the high costs, creating an unnecessary and devastating barrier to preserving their reproductive future. Insurance coverage for fertility preservation is essential to ensuring equitable access to care, allowing patients to focus on their treatment without the added distress of financial strain.

Critics argue that covering fertility preservation would impose significant costs on insurance providers. However, when compared to the expenses associated with life-saving treatments such as chemotherapy or radiation, the cost of fertility preservation is minimal. Many states have already recognized the importance of this issue and enacted similar legislation. HB 139 would bring Hawai'i in line with these forward-thinking policies, demonstrating a commitment to supporting patients beyond just their immediate medical needs.

By passing HB 139, you will be advocating for the well-being of individuals who should not have to choose between their health and their ability to have a family in the future. I strongly urge you to support this legislation and help make fertility preservation accessible to those who need it most.

Thank you for your time and thoughtful consideration of this important issue.

Respectfully,

April L. Woofter, DNP, RN

Chief Operating Officer



Fertility Institute of Hawaii

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FERTILITY INSTITUTE
O F H A W A I I

February 20, 2025

RE: Testimony in SUPPORT of HB 139

Aloha,

My name is Tiare Brown, and I am the Director of Third-Party Services at The Fertility Institute of Hawaii. I am writing in strong support of HB 139 which mandates insurance coverage for fertility preservation services for those with cancer or other conditions whose diagnosis and treatment may lead to iatrogenic infertility.

At The Fertility Institute of Hawaii, we have had the privilege of working with many patients who are facing the overwhelming reality of a cancer diagnosis. Along with the fear and uncertainty of their illness, these patients will often need to undergo treatments such as chemotherapy, radiation, or surgery which can result in irreversible and adverse effects to their fertility and ability to have children in the future.

Fortunately, medical advancements have given us a solution to this, which is fertility preservation. Techniques such as egg, sperm, and embryo cryopreservation are proven and effective methods to protect reproductive potential before undergoing treatment. However, despite this solution being readily available, many patients do not have access to fertility preservation due to financial barriers.

Now, imagine receiving a cancer diagnosis and your doctor tells you that you must start treatment immediately. Along with the overwhelming emotions of processing your diagnosis, you are informed that your treatment carries a high risk of infertility. In the midst of preparing to fight for your life, you are suddenly forced to make an impossible decision about your future ability to have children – a decision that may be difficult to make quickly, especially while under the stress of this recent news. You decide you want to preserve your fertility to have options, but learn that your insurance does not cover this service. Now, you are faced with the challenge of quickly finding the necessary funds to cover the cost. For many, this financial burden is simply too great, and they are left with no choice but to forgo fertility preservation and accept the potential loss of their future reproductive ability.

This is the reality for too many patients. The ability to have children should not be determined by one's financial means. It is a fundamental human right to have the opportunity to build a family, yet for many, it is out of reach largely in part due to economic barriers.

I have seen firsthand the joy of those who were able to preserve their fertility and later realize their dreams of parenthood after overcoming a diagnosis such as cancer. Conversely, I have

witnessed the heartbreak of those who could not access fertility preservation, and were left with no options for family building after surviving. No one should have to endure that devastation, especially when a proven medical solution exists.

Just as we have made significant advancements in cancer treatment and survival, it is equally important that we ensure survivors have the chance to build the future they deserve. For many, that future includes the dream of starting a family. Yet, today, access to fertility preservation is often not determined by medical need, but by one's financial circumstances. By supporting SB 642, we can remove this barrier and ensure that countless individuals receive the care they need but may not have otherwise had access to.

While some may argue that providing insurance coverage for fertility preservation is too costly, it's important to remember that the medical treatments causing iatrogenic infertility such as chemotherapy, radiation, and surgery, are already extremely expensive. In comparison, the cost of fertility preservation is minimal.

Insurance coverage for fertility preservation is not just a matter of cost—it is about ensuring equitable access to care and supporting patients' long-term well being. By offering insurance coverage for fertility preservation, we acknowledge the importance of reproductive health and allow patients to focus on their health without the added burden of losing their ability to build a family in the future.

I urge you to support HB 139, which will ensure that individuals undergoing medical treatments that can cause iatrogenic infertility, have the chance to preserve their fertility without financial barriers that are currently imposed by an absence of insurance coverage. Supporting this bill reflects the values that are deeply rooted in our community here in Hawai'i, where a strong sense of "ohana" has always been central to our culture. HB 139 is an opportunity to honor this ideal by ensuring that everyone has the chance to create their own ohana.

Mahalo,

Tiare Brown
Director of 3rd Party Services

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