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Andrew B. MacLean, JD, CEO | Dan Morin, Director of Communications & Government Affairs

TO: The Honorable Heather Sanborn, Chair
The Honorable Denise Tepler, Chair
Members, Joint Standing Committee on Health Coverage, Insurance and Financial Services

FM: Dan Morin, Director of Communications and Government Affairs

DATE: May 5, 2021

RE: **Support**

LD 1539—An Act To Provide Access to Fertility Care

The [Maine Medical Association](#) is the state's largest professional physician organization representing more than 4300 physicians, residents, and [medical students](#) across all clinical specialties, organizations, and practice settings is please to submit testimony in support of LD 1539, An Act To Provide Access to Fertility Care.

According to a [2014 National Health Statistics Report](#) from the United States Centers for Disease Control and Prevention, infertility is a significant public health problem that affects women, men, and couples. According to the report, twelve percent of women aged 15–44 in 2006–2010 (7.3millionwomen), or their husbands or partners, had ever used infertility services. Among women aged 25–44, 17% (6.9million) had ever used any infertility service, a significant decrease from 20% in 1995.

An important reference from the report, that fertility-impaired women who use infertility services are significantly more likely to be married, non-Hispanic white, older, more highly educated, and more affluent than non-users. Reasons for the disparities in use of infertility services may include access barriers such as the significant cost of medical services for infertility and the lack of adequate health insurance to afford the necessary diagnostic or treatment services. Issues such as infertility as it relates to health care disparities will be just one of the many efforts our recently established

[Race, Ethnicity, and Health Care Disparities Committee.](#)

A 2018 article in the American Medical Association (AMA) Journal of Ethics, [*Infertility, Inequality, and How Lack of Insurance Coverage Compromises Reproductive Autonomy*](#) concludes:

“Infertility is a disease with a substantial psychosocial burden, and the lack of affordable options may have significant detrimental effects on the quality of life of millions of Americans . . . The fundamental right to reproduce is currently under threat, and these disparities will only intensify if the financial barriers to infertility care are not directly and promptly addressed.”

Just one of our physicians who specializes in obstetrics and gynecology replied to an request for feedback on LD 1539 with the following:

“This would be life changing for so many patients. I see all the time where patients do not pursue fertility workup or treatment solely due to cost. Right now, if I even mention fertility insurance companies most of the time will not even cover a visit. This would be a really big deal if patient could get coverage.”

Below our testimony, you will also find statutory reference links to fertility laws from nearby New England states accompanied by a summary of each law. In addition, the National Conference of State Legislators (NCSL) provides a thorough overview of [State Laws Related to Insurance Coverage for Infertility Treatment](#). According to NCSL, 17 states, including Connecticut, Massachusetts, New Hampshire, Rhode Island, have passed laws that require insurers to either cover or offer coverage for infertility diagnosis and treatment. Of those states, 15 have laws that require insurance companies to cover infertility treatment and two states—California and Texas—have laws that require insurance companies to offer coverage for infertility treatment.

Thank you for the opportunity to offer comments and information in support of LD 1539, An Act To Provide Access to Fertility Care. We would be happy to provide additional information and/or physician representation, if available, for more information before or during the work session. Thank you.

Connecticut

[Chapter 700c - Health Insurance; Section 38a-509 - Mandatory coverage for infertility diagnosis and treatment. Limitations.](#)

Summary:

Definition of Infertility/Patient Requirements

Infertility means the condition of an individual who is unable to conceive or produce conception or sustain a successful pregnancy during a one-year period or such treatment is medically necessary (the latter refers to fertility preservation services when a medically necessary medical treatment may cause iatrogenic, or medically induced infertility).

Limits coverage to individuals who have maintained coverage under a policy for at least 12 months.

Coverage

- Lifetime maximum coverage of 4 cycles of ovulation induction.
- Lifetime maximum coverage of 3 cycles of intrauterine insemination.
- Lifetime maximum coverage of 2 cycles of IVF, GIFT, ZIFT or low tubal ovum transfer, with not more than 2 embryo implantations per cycle. Each fertilization or transfer is credited as one cycle towards the maximum.
- Limits coverage for IVF, GIFT, ZIFT and low tubal ovum transfer to individuals who have been unable to conceive or sustain a successful pregnancy through less expensive and medically viable infertility treatment or procedures, unless the individual's physician determines that those treatments are likely to be unsuccessful.
- Requires infertility treatment or procedures to be performed at facilities that conform to the American Society of Reproductive Medicine and the Society of Reproductive Endocrinology and Infertility Guidelines.

Massachusetts

[Chapter 175, Section 47H: Infertility, pregnancy-related benefits](#)

Summary:

Definition of Infertility/Patient Requirements

Infertility means the condition of an individual who is unable to conceive or produce conception during a period of 1 year if the female is age 35 or younger or during a period of 6 months if the female is over the age of 35. For purposes of meeting the criteria for infertility in this section, if a person conceives but is unable to carry that pregnancy to live birth, the period of time she attempted to conceive prior to achieving that pregnancy shall be included in the calculation of the 1-year or 6-month period.

Coverage

- All insurers providing pregnancy-related benefits shall provide for the diagnosis and treatment of infertility including the following: artificial insemination; IVF; GIFT; sperm, egg and/or inseminated egg procurement and processing, and banking of sperm or inseminated eggs, to the extent such costs are not covered by the donor's insurer, if any; ICSI; ZIFT; assisted hatching; cryopreservation of eggs.
- Conceiving but having a miscarriage does not restart the 1-year or 6-month clock to qualify as having infertility.
- Insurers shall not impose any exclusions, limitations or other restrictions on coverage of infertility drugs that are different from those imposed on any other prescription drugs, nor shall they impose deductibles, copayments, coinsurance, benefit maximums, waiting periods or any other limitations on coverage for required infertility benefits which are different from those imposed upon benefits for services not related to infertility.
- The law does not limit the number of treatment cycles and does not have a dollar lifetime cap. Insurers may set limits based on their clinical guidelines and patients' medical histories.

New Hampshire

[CHAPTER 417-G ACCESS TO FERTILITY CARE](#)

Summary:

Definition of Infertility/Patient Requirements

Infertility means a disease, caused by an illness, injury, underlying disease, or condition, where an individual's ability to become pregnant or to carry a pregnancy to live birth is impaired, or where an

individual's ability to cause pregnancy and live birth in the individual's partner is impaired.

Standard fertility preservation services mean procedures consistent with established medical practices and professional guidelines published by the American Society for Reproductive Medicine or the American Society of Clinical Oncology.

Coverage

Each health carrier that issues or renews any group policy, plan, or contract of accident or health insurance providing benefits for medical or hospital expenses, shall provide coverage for the following:

- Diagnosis of the cause of infertility.
- Medically necessary fertility treatment. This includes coverage for evaluations, laboratory assessments, medications, and treatments associated with the procurement of donor eggs, sperm, and embryos.
- Fertility preservation when a person is expected to undergo surgery, radiation, chemotherapy, or other medical treatment that is recognized by medical professionals to cause a risk of impairment of fertility. This includes coverage for standard fertility preservation services, including the procurement and cryopreservation of embryos, eggs, sperm, and reproductive material determined not to be an experimental infertility procedure. Storage shall be covered from the time of cryopreservation for the duration of the policy term. Storage offered for a longer period of time, as approved by the health carrier, shall be an optional benefit.
- Limitations on coverage shall be based on clinical guidelines and the enrollee's medical history.

No health insurance carrier may:

- Impose deductibles, copayments, coinsurance, benefit maximums, waiting periods or any other limitations on coverage which are different from those imposed upon benefits for services not related to infertility or any limitations on coverage of fertility medications that are different from those imposed on any other prescription medications.
- Impose pre-existing condition exclusions or pre-existing condition waiting periods on coverage for required benefits or use any prior diagnosis of or prior treatment for infertility as a basis for excluding, limiting, or otherwise restricting the availability of coverage for required benefits.
- Impose limitations on coverage based solely on arbitrary factors including, but not limited to,

number of attempts or dollar amounts or age, or provide different benefits to, or impose different requirements upon, a class protected under RSA 354-A than that provided to, or required of, other patients.

Rhode Island

§ 27-18-30. Health insurance contracts – Infertility

Summary:

Definition of Infertility/Patient Requirements

Infertility means the condition of an otherwise presumably healthy individual who is unable to conceive or produce conception during a period of one year. Iatrogenic infertility means an impairment of fertility by surgery, radiation, chemotherapy or other medical treatment affecting reproductive organs or processes.

Coverage

- Insurers and HMOs that cover pregnancy benefits, must provide coverage for medically necessary expenses of diagnosis and treatment of infertility and for standard fertility preservation services when a medically necessary medical treatment may directly or indirectly cause iatrogenic infertility to a covered person.
- Coverage is provided to women between the ages of 25 and 42 for diagnosis and treatment of infertility (does not apply to fertility preservation).
- The law imposes a \$100,000 cap on treatment.
- The insurer may impose up to a 20% co-payment.

Thank you for the opportunity to offer this information in support of LD 1357, An Act To Require Private Insurance Coverage for Postpartum Care. We would be happy to provide additional information and/or physician representation for more information before or during the work session. Thank you.