

# HOUSE . . . . . No. 3889

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act preventing discrimination in infertility coverage..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Section 47H of chapter 175 of the General Laws, as appearing in the 2006  
2   Official Edition, is hereby amended by adding the following paragraph:-

3           Fertility treatment coverage shall not be denied based on a women’s age or inherent  
4   fertility potential alone. Fertility treatment coverage shall be based on the patient’s medical  
5   safety and the clinical expertise of the treating Board Certified Reproductive Endocrinologist  
6   who is professionally trained regarding infertility treatment options and patient counseling  
7   relative to the benefits and risks of Assisted Reproductive technologies, treatments and  
8   procedures. Physicians and patients shall be free to choose assisted reproductive technologies  
9   which shall include in vitro fertilization, intracytoplasmic sperm injection, and embryonic  
10   assisted hatching and be covered by insurers. Such coverage shall prohibit arbitrary limits  
11   placed by insurance providers on the number of attempts of infertility treatments and procedures.  
12   Insurance provided may not use specific medical inclusion guidelines to deny infertility coverage  
13   such as Ovarian Reserve Testing including, but not limited to Clomid Challenge testing. Insurers  
14   shall be prohibited from using the words “naturally infertile” to exclude coverage for certain

15 infertility treatments including donor egg procedures. Insurers shall be required to simplify the  
16 infertility coverage approval processes to minimize delays in treatments sought by patients and  
17 their treating physicians. Insurance providers shall be prohibited from setting any time limit  
18 provision with regards to coverage for fertility treatments among patients who have  
19 demonstrated recurrent pregnancy loss and are clinically diagnosed with reproductive failure.  
20 Insurance providers shall be prohibited from the practice of denying single women or lesbian  
21 couples from infertility coverage unless they have demonstrated a certain number of MD  
22 supervised intrauterine inseminations before being diagnosed as infertile. The same clinical  
23 criteria number of MD supervised intrauterine inseminations before being diagnosed as infertile.  
24 The same clinical criteria that apply to heterosexual couples shall apply to single women or  
25 lesbian couples in determining a diagnosis of infertility.