
A BILL FOR AN ACT

RELATING TO FERTILITY RIGHTS OF CANCER PATIENTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that each year,
2 approximately 165,000 Americans under forty-five years of age
3 are diagnosed with cancer. In Hawaii, regardless of age,
4 approximately six thousand individuals are diagnosed with cancer
5 each year. According to the Hawaii Tumor Registry, between 2007
6 and 2011, the average number of new diagnosed cases of cancer
7 annually among those aged eighteen through forty-five years was
8 731.

9 Improvements in cancer screening have resulted in an
10 increase in cancer diagnosis among people in their reproductive
11 years, many of whom are at risk for premature gonadal failure
12 and permanent infertility due to chemotherapy or radiation
13 therapy. For example, women with cancer who are less than forty
14 years of age have a twenty to ninety per cent chance of
15 premature ovarian failure resulting from cancer treatment.
16 Advances in cancer treatment have resulted in decreased
17 mortality and patients having longer survival rates for many
18 types of cancer. As cancer survival rates increase, many



1 national cancer organizations, such as the President's Cancer
2 Panel and the National Cancer Institute, acknowledge that more
3 attention should be directed to ensuring quality of life as it
4 relates to survivorship.

5 The legislature further finds that cancer treatment can
6 contribute to reproductive damage, resulting in subsequent
7 infertility. In males, chemotherapy or radiation can adversely
8 affect sperm number, morphology, and motility and can result in
9 DNA damage. Surgery to reproductive organs (e.g., testes) can
10 affect fertility and pelvic surgery can result in nerve damage,
11 interfering with ejaculation. In females, cancer treatment can
12 damage or destroy oocytes and follicles, cause hormone
13 imbalance, and interfere with the functioning of the ovaries,
14 fallopian tubes, uterus, or cervix. Surgery to remove female
15 reproductive organs hinders the ability to become pregnant or
16 carry a pregnancy. Total body, abdominal, or pelvic radiation
17 can cause ovarian and uterine damage, increasing the risk of
18 miscarriage or low-birth weight infants.

19 Medical literature indicates that infertility can be a
20 devastating consequence of cancer treatment, thus adversely
21 affecting the quality of life of cancer survivors. Infertility
22 can have long-term psychological effects among survivors, which



1 may be experienced years after treatment. Cancer patients
2 report that the possible or actual loss of fertility causes
3 immense psychosocial distress. Thus, having options for
4 fertility preservation can ultimately reduce distress and
5 improve quality of life.

6 The legislature further finds that although reproductive
7 medicine offers several methods to preserve fertility, the most
8 successful and established or standard methods for fertility
9 preservation are sperm cryopreservation for males and embryo
10 cryopreservation for females. In 2013, the American Society for
11 Reproductive Medicine expanded standard fertility preservation
12 methods to include oocyte cryopreservation for females because
13 of its significantly improved success rate. Accordingly, the
14 procedure is no longer considered an experimental method.
15 However, other fertility preservation alternatives that are
16 considered experimental should only be offered in a research
17 setting as part of an institutional review board-approved
18 protocol, according to the American Society for Reproductive
19 Medicine. For these reasons, this Act only mandates insurance
20 coverage for standard fertility preservation procedures,
21 specifically sperm cryopreservation for adult males and embryo
22 or oocyte cryopreservation for adult females.



1 Sperm cryopreservation for males is a procedure to preserve
2 sperm cells through freezing semen. It is recommended that the
3 semen specimen should be collected prior to the start of
4 chemotherapy because there is a higher risk of genetic damage in
5 sperm collected after chemotherapy has commenced.

6 Embryo cryopreservation for females is the process of
7 preserving an embryo through freezing techniques. It requires a
8 cycle of in vitro fertilization in which the ovaries are
9 stimulated to produce eggs, which are then fertilized by male
10 sperm through intracytoplasmic sperm injection. Embryos can be
11 stored and used years later.

12 The legislature further finds that cancer patients have a
13 right to be informed of accurate information on cancer
14 treatment-associated risks of infertility, options available in
15 preserving their fertility, and the costs involved. The
16 literature shows that there is an increasing interest among
17 cancer patients in preserving their fertility. However,
18 fertility-sparing options are often not pursued due to financial
19 barriers. The American Society of Clinical Oncology and the
20 American Society for Reproductive Medicine recommend that health
21 care providers address the possibility of infertility and
22 options for fertility preservation with patients who are



1 anticipating cancer treatment during their reproductive years.
2 However, the costs and lack of insurance coverage are major
3 reasons cited by oncologists to explain why information on
4 fertility preservation options is not provided to their
5 patients. A person of reproductive age, newly diagnosed with
6 cancer, has to consider not only how to finance the cancer
7 treatment but also the daunting possibility of permanent
8 infertility as a result and the additional stressor of the costs
9 for fertility preservation, if considering having children in
10 the future.

11 Hawaii's current insurance code mandates insurance coverage
12 for one cycle of in vitro fertilization procedures for married
13 couples experiencing infertility. According to several national
14 and international health organizations, infertility is defined
15 as failure to achieve pregnancy over a specified period of time,
16 usually one year, when engaging in regular, unprotected sexual
17 intercourse. However, people diagnosed with cancer do not meet
18 the criteria for any definition of infertility because they have
19 not technically been diagnosed as infertile at the time of their
20 cancer diagnosis, as they do not yet meet the time requirement
21 for unsuccessful conception. Therefore, if persons of
22 reproductive age who are diagnosed with cancer want to preserve



1 their fertility prior to starting treatment, for the purpose of
2 future parenting, they would have to bear the full costs. In
3 Hawaii, sperm cryopreservation costs between \$300 and \$700.
4 Embryo and oocyte cryopreservation costs can range from \$12,000
5 to \$20,000, with variations due to individual reproductive
6 clinic costs and medication regimens used.

7 The purpose of this Act is to require Hawaii insurance
8 companies to include as a covered benefit embryo, oocyte, and
9 sperm cryopreservation procedures for adult females of
10 reproductive potential and adult males who are diagnosed with
11 cancer and have not started cancer treatment.

12 SECTION 2. Chapter 431, Hawaii Revised Statutes, is
13 amended by adding a new section to article 10A to be
14 appropriately designated and to read as follows:

15 **"§431:10A-_____ Embryo, oocyte, and sperm cryopreservation**
16 **procedure coverage.** (a) Each policy of accident and health or
17 sickness insurance providing coverage for health care, except
18 for policies that provide coverage only for specified diseases
19 or other limited benefit coverage, shall provide coverage for
20 embryo, oocyte, and sperm cryopreservation procedures, including
21 in vitro fertilization procedures, for insureds and covered
22 dependants; provided that:



- 1 (1) The patient is an adult female of reproductive
- 2 potential or an adult male;
- 3 (2) The patient has been diagnosed with cancer and has not
- 4 started cancer treatment, including chemotherapy,
- 5 biotherapy, or radiation therapy; and
- 6 (3) The procedures conform to guidelines of the American
- 7 College of Obstetricians and Gynecologists for in
- 8 vitro fertilization or the minimal standards of the
- 9 American Society for Reproductive Medicine for in
- 10 vitro fertilization.

11 (b) Utilization of coverage under this section shall be
 12 limited as follows:

- 13 (1) For a patient who is an adult female of reproductive
- 14 potential, one procedure of either embryo or oocyte
- 15 cryopreservation procedure per lifetime; and
- 16 (2) For a patient who is an adult male, one sperm
- 17 cryopreservation procedure per lifetime.

18 (c) The costs of embryo, oocyte, and sperm
 19 cryopreservation procedures that shall be covered under this
 20 section include all outpatient expenses arising from embryo,
 21 oocyte, and sperm cryopreservation, including evaluations,



1 laboratory assessments, medications, and treatments associated
2 with the procedure, and cryopreservation costs.

3 (d) This section shall not require coverage for:

4 (1) Costs for initial or annual storage of embryos,
5 oocytes, or sperm; and

6 (2) Subsequent medical costs, including evaluations,
7 diagnostic studies, medical treatment, or medications,
8 for the future use of cryopreserved embryos, oocytes,
9 or sperm to attempt a pregnancy."

10 SECTION 3. Chapter 432, Hawaii Revised Statutes, is
11 amended by adding a new section to part VI of article 1 to be
12 appropriately designated and to read as follows:

13 "§432:1- Embryo, oocyte, and sperm cryopreservation
14 procedure coverage. (a) All individual and group hospital and
15 medical service contracts providing health care coverage shall
16 provide coverage for embryo, oocyte, and sperm cryopreservation
17 procedures, including in vitro fertilization procedures, for
18 subscribers, members, and covered dependants; provided that:

19 (1) The patient is an adult female of reproductive
20 potential or an adult male;



1 (2) The patient has been diagnosed with cancer and has not
2 started cancer treatment, including chemotherapy,
3 biotherapy, or radiation therapy; and

4 (3) The procedures conform to guidelines of the American
5 College of Obstetricians and Gynecologists for in
6 vitro fertilization or the minimal standards of the
7 American Society for Reproductive Medicine for in
8 vitro fertilization.

9 (b) Utilization of coverage under this section shall be
10 limited as follows:

11 (1) For a patient who is an adult female of reproductive
12 potential, one procedure of either embryo or oocyte
13 cryopreservation procedure per lifetime; and

14 (2) For a patient who is an adult male, one sperm
15 cryopreservation procedure per lifetime.

16 (c) The costs of embryo, oocyte, and sperm
17 cryopreservation procedures that shall be covered under this
18 section include all outpatient expenses arising from embryo,
19 oocyte, and sperm cryopreservation, including evaluations,
20 laboratory assessments, medications, and treatments associated
21 with the procedure, and cryopreservation costs.

22 (d) This section shall not require coverage for:



- 1 (1) Costs for initial or annual storage of embryos,
- 2 oocytes, or sperm; and
- 3 (2) Subsequent medical costs, including evaluations,
- 4 diagnostic studies, medical treatment, or medications,
- 5 for the future use of cryopreserved embryos, oocytes,
- 6 or sperm to attempt a pregnancy."

7 SECTION 4. Section 432D-23, Hawaii Revised Statutes, is
 8 amended to read as follows:

9 **"§432D-23 Required provisions and benefits.**

10 Notwithstanding any provision of law to the contrary, each
 11 policy, contract, plan, or agreement issued in the State after
 12 January 1, 1995, by health maintenance organizations pursuant to
 13 this chapter, shall include benefits provided in sections
 14 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116, 431:10A-
 15 116.5, 431:10A-116.6, 431:10A-119, 431:10A-120, 431:10A-121,
 16 431:10A-125, 431:10A-126, 431:10A-122, [~~and~~] 431:10A-116.2, and
 17 431:10A- , and chapter 431M."

18 SECTION 5. Statutory material to be repealed is bracketed
 19 and stricken. New statutory material is underscored.

20 SECTION 6. This Act shall take effect on July 1, 2050.



Report Title:

Embryo, Oocyte, and Sperm Cryopreservation; Insurance

Description:

Requires insurance coverage for embryo, oocyte, and sperm cryopreservation procedures for adults diagnosed with cancer who have not started cancer treatment. Effective July 1, 2050.
(HB2061 HD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

