
A BILL FOR AN ACT

RELATING TO 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 age forty-five are
3 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 newly diagnosed cancer cases
7 annually among those aged eighteen through forty-five was seven
8 hundred thirty-one.

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



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

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

20 Medical literature indicates that infertility can be a
21 devastating consequence of cancer treatment, thus adversely



1 affecting the quality of life of cancer survivors. Infertility
2 can have long-term psychological effects among survivors, which
3 may be experienced years after treatment. Cancer patients
4 report that the possible or actual loss of fertility causes
5 immense psychosocial distress. Thus, having options for
6 fertility preservation can ultimately reduce distress and
7 improve quality of life.

8 The legislature further finds that although reproductive
9 medicine offers several methods to preserve fertility, two
10 successful and established methods for fertility preservation
11 are sperm cryopreservation for males and oocyte cryopreservation
12 for females. There are other fertility preservation
13 alternatives that are still considered experimental and
14 therefore should only be offered in a research setting as part
15 of an institutional review board-approved protocol, according to
16 the American Society for Reproductive Medicine. For these
17 reasons, this Act only mandates insurance coverage for standard
18 fertility preservation procedures, specifically sperm
19 cryopreservation for adult males and oocyte cryopreservation for
20 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 Similarly, oocyte cryopreservation for females is the
7 process of preserving egg cells through freezing techniques.
8 The technique involves the stimulation of ovaries to produce
9 eggs, which are subsequently frozen and stored for future use.

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



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

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



1 preserve their fertility prior to starting cancer treatment, for
2 the purpose of future parenting, they would have to bear the
3 full costs. In Hawaii, sperm cryopreservation costs between
4 \$300 and \$700. Oocyte cryopreservation costs can range from
5 \$10,000 to \$15,000, with variations due to individual
6 reproductive 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 oocyte and sperm
9 cryopreservation procedures for:

- 10 (1) Adult females of reproductive potential; and
11 (2) Adult males,
12 who are diagnosed with cancer and have not started cancer
13 treatment.

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

17 "§431:10A- Oocyte and sperm cryopreservation procedure
18 coverage. (a) Each policy of accident and health or sickness
19 insurance providing coverage for health care, except for
20 policies that provide coverage only for specified diseases or
21 other limited benefit coverage, shall provide coverage for



1 oocyte and sperm cryopreservation procedures for insureds and
2 covered dependents; provided that:

3 (1) The patient is an:

4 (A) Adult female of reproductive potential; or

5 (B) Adult male; and

6 (2) The patient has been diagnosed with cancer and has not
7 started cancer treatment, including chemotherapy,
8 biotherapy, or radiation therapy.

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 oocyte cryopreservation procedure per
13 lifetime; and

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

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



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

2 (1) Costs for initial or annual storage of oocytes or
3 sperm;

4 (2) Subsequent medical costs, including evaluations,
5 diagnostic studies, medical treatment, or medications,
6 for the future use of cryopreserved oocytes or sperm
7 to attempt a pregnancy; and

8 (3) Services that are not clinically appropriate.

9 (e) Upon the completion of the covered cryopreservation
10 procedure:

11 (1) The duties and obligations of the hospital, provider,
12 and its medical staff or representatives, performing
13 the covered cryopreservation procedure, are
14 immediately discharged; and

15 (2) The patient requesting the cryopreservation services
16 shall execute an agreement with the selected cryobank
17 for storage services, which may include:

18 (A) Transport (chain of custody) and storage
19 procedures;

20 (B) Withdrawal and consent to release to any other
21 designated agent; and



1 (C) Storage fees."

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

5 "§432:1- Oocyte and sperm cryopreservation procedure
6 coverage. (a) All individual and group hospital and medical
7 service contracts providing health care coverage shall provide
8 coverage for oocyte and sperm cryopreservation procedures for
9 subscribers, members, and covered dependents, provided that:

10 (1) The patient is an:

11 (A) Adult female of reproductive potential; or

12 (B) Adult male; and

13 (2) The patient has been diagnosed with cancer and has not
14 started cancer treatment, including chemotherapy,
15 biotherapy, or radiation therapy.

16 (b) Utilization of coverage under this section shall be
17 limited as follows:

18 (1) For a patient who is an adult female of reproductive
19 potential, one oocyte cryopreservation procedure per
20 lifetime; and



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

3 (c) The costs of oocyte and sperm cryopreservation
4 procedures that shall be covered under this section include all
5 outpatient expenses arising from oocyte and sperm
6 cryopreservation, including evaluations, laboratory assessments,
7 medications, and treatments associated with the procedure, and
8 cryopreservation costs.

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

10 (1) Costs for initial or annual storage of oocytes or
11 sperm;

12 (2) Subsequent medical costs, including evaluations,
13 diagnostic studies, medical treatment, or medications,
14 for the future use of cryopreserved oocytes or sperm
15 to attempt a pregnancy; and

16 (3) Services that are not clinically appropriate.

17 (e) Upon the completion of the covered cryopreservation
18 procedure:

19 (1) The duties and obligations of the hospital, provider,
20 and its medical staff or representatives, performing



1 the covered cryopreservation procedure, are
2 immediately discharged; and

3 (2) The patient requesting the cryopreservation services
4 shall execute an agreement with the selected cryobank
5 for storage services, which may include:

6 (A) Transport (chain of custody) and storage
7 procedures;

8 (B) Withdrawal and consent to release to any other
9 designated agent; and

10 (C) Storage fees."

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

13 **"§432D-23 Required provisions and benefits.**

14 Notwithstanding any provision of law to the contrary, each
15 policy, contract, plan, or agreement issued in the State after
16 January 1, 1995, by health maintenance organizations pursuant to
17 this chapter, shall include benefits provided in sections
18 431:10-212, 431:10A-115, 431:10A-115.5, 431:10A-116,
19 431:10A-116.2, 431:10A-116.5, 431:10A-116.6, 431:10A-119,
20 431:10A-120, 431:10A-121, 431:10A-122, 431:10A-125, 431:10A-126,



1 431:10A-132, 431:10A-133, 431:10A-140, [and] 431:10A-134, and
2 431:10A-, and chapter 431M."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on July 1, 2018.

6

INTRODUCED BY:

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JAN 24 2018



H.B. NO. 2669

Report Title:

Oocyte and Sperm Cryopreservation; Insurance

Description:

Requires insurance coverage for oocyte and sperm cryopreservation procedures to preserve the fertility of adults diagnosed with cancer who have not yet started cancer treatment.

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