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## A BILL FOR AN ACT

RELATING TO IN VITRO FERTILIZATION INSURANCE COVERAGE.

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

1           SECTION 1. The legislature finds that reproductive  
2 technologies, such as in vitro fertilization, are extremely  
3 important to many who desire to have children. The legislature  
4 also finds that the State's mandate that insurance plans provide  
5 a one-time benefit for costs associated with in vitro  
6 fertilization procedures, though admirable, excludes same-sex  
7 couples, unmarried women, and male-female couples for whom male  
8 infertility is the relevant factor. While some insurers  
9 independently offer policies that cover female couples or women  
10 without male partners, these policies are not guaranteed by law  
11 and not all cover single women. No policies currently cover  
12 male couples; policies typically exclude procedures involving  
13 donor oocytes and surrogates that male couples require.  
14 Finally, male-female couples for whom male infertility is the  
15 relevant factor are excluded from the current statutory  
16 requirement that the covered treatment involve sperm from the  
17 male spouse.



1           The legislature finds that the current unequal treatment of  
2 individuals seeking medical fertility assistance constitutes  
3 discrimination on the basis of sex, sexual orientation, and  
4 marital status. In vitro fertilization procedures are expensive,  
5 costing \$10,000 to \$15,000 per cycle, which is approximately  
6 half of the average annual disposable income in the United  
7 States. Same-sex couples, unmarried women, and male-female  
8 couples affected by male infertility must unreasonably bear the  
9 full cost of the procedures while male-female married couples  
10 for whom female infertility is the relevant factor do not bear  
11 the same burden.

12           The purpose of this Act is to ensure equal access to in  
13 vitro fertilization for all couples, including same-sex couples,  
14 and for women regardless of their marital status.

15           SECTION 2. Section 431:10A-116.5, Hawaii Revised Statutes,  
16 is amended by amending subsection (a) to read as follows:

17           "(a) All individual and group accident and health or  
18 sickness insurance policies which provide pregnancy-related  
19 benefits shall include in addition to any other benefits for  
20 treating infertility, a one-time only benefit for all outpatient  
21 expenses arising from in vitro fertilization procedures



1 performed on the insured or the insured's dependent spouse [7] or  
2 the oocyte donor or surrogate of the insured or of the insured's  
3 dependent spouse; provided that:

4 (1) Benefits under this section shall be provided to the  
5 same extent as the benefits provided for other  
6 pregnancy-related benefits;

7 ~~[-(2)] The patient is the insured or covered dependent of the~~  
8 ~~insured;~~

9 ~~-(3)]~~ (2) The ~~[patient's]~~ oocytes ~~[are fertilized with the~~  
10 ~~patient's spouse's sperm;]~~ or sperm of the insured or  
11 of the insured's spouse are used in the in vitro  
12 fertilization procedures;

13 ~~[-(4)]~~ (3) The:

14 (A) ~~[Patient and the patient's spouse have]~~ Insured  
15 or the insured's spouse has a history of  
16 infertility of at least ~~[five years' duration;~~  
17 ~~or]~~ twelve months;

18 (B) Infertility is associated with one or more of the  
19 following medical conditions:

20 (i) Endometriosis;



- 1                   (ii) Exposure in utero to diethylstilbestrol,
- 2                                   commonly known as DES;
- 3                   (iii) Blockage of, or surgical removal of, one or
- 4                                   both fallopian tubes (lateral or bilateral
- 5                                   salpingectomy); or
- 6                   (iv) Abnormal male factors contributing to the
- 7                                   infertility; or
- 8                   (C) Insured and insured's spouse are of the same sex;
- 9       [-(5)-] (4) The [patient] insured or the insured's spouse has
- 10                   been unable to attain a successful pregnancy through
- 11                   other applicable infertility treatments for which
- 12                   coverage is available under the insurance contract;
- 13                   and
- 14       [-(6)-] (5) The in vitro fertilization procedures are
- 15                   performed at medical facilities that conform to the
- 16                   American College of Obstetricians and Gynecologists
- 17                   guidelines for in vitro fertilization clinics or to
- 18                   the American Society for Reproductive Medicine minimal
- 19                   standards for programs of in vitro fertilization."

20                   SECTION 3. Section 432:1-604, Hawaii Revised Statutes, is

21       amended by amending subsection (a) to read as follows:



1           "(a) All individual and group hospital or medical service  
2 plan contracts which provide pregnancy-related benefits shall  
3 include in addition to any other benefits for treating  
4 infertility, a one-time only benefit for all outpatient expenses  
5 arising from in vitro fertilization procedures performed on the  
6 subscriber or member or the subscriber's or member's dependent  
7 spouse[+] or the oocyte donor or surrogate of the subscriber or  
8 member or of the subscriber or member's dependent spouse;  
9 provided that:

10           (1) Benefits under this section shall be provided to the  
11 same extent as the benefits provided for other  
12 pregnancy-related benefits;

13           ~~[-(2) The patient is a subscriber or member or covered~~  
14           ~~dependent of the subscriber or member;~~

15           ~~-(3)]~~ (2) The [patient's] oocytes ~~[are fertilized with the~~  
16           ~~patient's spouse's sperm;]~~ or sperm of the subscriber  
17           or member or of the subscriber or member's spouse are  
18           used in the in vitro fertilization procedures;

19           ~~[-(4)]~~ (3) The:

20           (A) ~~[Patient and the patient's spouse have]~~  
21           Subscriber or member or the subscriber or



1                    member's spouse has a history of infertility of  
2                    at least [~~five years' duration; or~~] twelve  
3                    months;

4                    (B) Infertility is associated with one or more of the  
5                    following medical conditions:

6                    (i) Endometriosis;

7                    (ii) Exposure in utero to diethylstilbestrol,  
8                    commonly known as DES;

9                    (iii) Blockage of, or surgical removal of, one or  
10                    both fallopian tubes (lateral or bilateral  
11                    salpingectomy); or

12                    (iv) Abnormal male factors contributing to the  
13                    infertility; or

14                    (C) Subscriber or member and the subscriber or  
15                    member's spouse are of the same sex;

16                    [~~(5)~~] (4) The [patient] subscriber or member or the  
17                    subscriber or member's spouse has been unable to  
18                    attain a successful pregnancy through other applicable  
19                    infertility treatments for which coverage is available  
20                    under the contract; and



1        [(-6-)] (5)    The in vitro fertilization procedures are  
 2                    performed at medical facilities that conform to the  
 3                    American College of Obstetricians and Gynecologists  
 4                    guidelines for in vitro fertilization clinics or to  
 5                    the American Society for Reproductive Medicine minimal  
 6                    standards for programs of in vitro fertilization."

7            SECTION 4.    Statutory material to be repealed is bracketed  
 8 and stricken.    New statutory material is underscored.

9            SECTION 5.    This Act shall take effect on July 1, 2017.

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INTRODUCED BY: Dee A. Kestel

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ON

# H.B. NO. 664

**Report Title:**

In Vitro Fertilization; Required Insurance Coverage

**Description:**

Removes discriminatory requirements for mandatory insurance coverage of in vitro fertilization procedures to create parity of coverage for same-sex couples, unmarried women, and male-female couples for whom male infertility is the relevant factor.

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