

STEPHAN K. OTTO

Testimony In Support of SB 242 Senate Committee on Health Care

March 8, 2019

Dear Chair Monnes-Anderson, Vice-Chair Linthicum, and Members of the Committee:

Fifteen years ago this past January, the single most profound and wonderful event occurred in my life – I became a dad to a beautiful baby daughter and son. This was only possible owing to advances in assisted reproductive technology and an amazing woman who chose to be our surrogate.

Our family of four (plus one Labradoodle) lives in SW Portland, and our twins are now freshmen at Wilson High School. Time really does fly. However, when thinking back, we were incredibly fortunate because our surrogate had insurance that covered her pregnancy. In fact, in 2003 when our pregnancy first began, I believe almost every carrier in Oregon covered these pregnancies. Unfortunately, a lot has changed in the negative since that time, and our state is in a situation where currently only one carrier offers coverage for surrogacy pregnancies.

Insurance Carriers Discriminating against Oregonians Unable to Bear Children

Insurance companies that exclude coverage for surrogacy pregnancies engage in overt and glaring discrimination against Oregonians who are unable to carry their own children to term. This is inherently inequitable and antithetical to Oregon public policy.

This type of insurance discrimination – basing coverage on the motivations of the insured parties, and, in the case of surrogacy, the circumstances of conception and plans for the child once born – is a dangerous, slippery slope. What next, will carriers try to exclude coverage for pregnancies involving multiple births? Perhaps they will try to deny or limit types of coverage for insured parties who choose certain occupations because such occupations are more likely to lead to higher claims. This is why oversight and regulation, by way of SB 242, is so important.

Insurance Carriers Pocketing Premiums but Excluding Coverage

Surrogacy pregnancies are just a tiny fraction of the more than 44,000 births that occur each year in Oregon. Yet these abhorrent exclusion practices by insurance carriers wield a huge impact on Oregonians reliant on surrogacy insurance coverage to start or grow a family, or help others to do so. These carriers are continuing to collect premiums from both the intended parent(s) and surrogate, but provide no pregnancy coverage for

either. How is this even possible? How are such companies able to pad their profits in such an egregious fashion without any repercussion?

Negative Economic Impacts on Oregonians Who Create Families by Surrogacy

We came from modest means and had to take out a loan on our home in order to finance our family creation. Moreover, owing to the reality of daily life and the constantly changing needs of our family, that debt is still not fully retired. Being forced to borrow another \$10,000-20,000 dollars on top of the tens of thousands of dollars already needed for surrogacy and related medical expenses, in order to buy an additional insurance plan for our surrogate, would have made it that much more difficult, or may have even precluded us, and those in similar situations, from having children.

SB 242 Will Bring Oregon in Compliance with Federal Law & Avoid Litigation

Another important reason for Oregon to enact SB 242 is that it will put our state in a forward-facing, pro-active position that complies with federal law. This in turn, will help shield Oregon from litigation over this issue.

According to the Employee Benefits Institute of America, a national organization that provides employee benefits research and guidance:

“[T]he Pregnancy Discrimination Act (PDA) may prohibit enforcement of a health plan’s exclusion for the pregnancy and birth-related expenses of a plan participant who is acting as a surrogate mother. Since the PDA mandates that a plan cover pregnancy in the same manner as other medical conditions, it would be difficult for a plan to maintain that excluding pregnancy expenses based on the circumstances of conception or plans for the child once it is born would be permitted under the PDA. ... [H]ealth care reform may also require a plan to cover a participant’s surrogacy medical expenses as preventive health services or essential health benefits.”¹

Thank you for holding this hearing, and I again ask for your support of SB 242.

Sincerely,



Stephan K. Otto

¹ <https://tax.thomsonreuters.com/blog/court-finds-health-plans-denial-of-surrogacy-expenses-reasonable-despite-ambiguous-plan-provision/>