



Testimony of Robin Elizabeth Pope, Attorney - March 11, 2019

Senate Bill 242 with -1 Amendments

Chair Monnes Anderson and members of the Senate Committee on Health Care : My name is Robin Pope. I am an attorney in private practice; my practice is limited to family formation law, including surrogacy, adoption and related matters. Over the past 30+ years I have represented intended parents, gestational surrogates, birth parents, adoptive parents, adoption agencies, and putative fathers. I am here to testify in support of SB 242 with the -1 Amendments.

My background includes: Membership since 1997 in the Academy of Adoption and Assisted Reproduction Attorneys (including 4 years as a Board Trustee), a national association of attorneys who practice, or have otherwise distinguished themselves, in the field of family formation law; longtime membership in the Oregon State Bar Family Law Section Standing Committee on Adoption and Assisted Reproductive Technology Law and several years as chair of that committee; many years of pro bono service to Oregon citizens as a Pro Tem Judge in Clackamas County Circuit Court (family law matters, including child support) and Washington County Circuit Court (small claims court); service on three Oregon Law Commission Work Groups followed by the successful passage of pertinent legislation (paternity, parentage and open adoption records); service on Oregon DHS Work Groups to review and revise Oregon Administrative Rules regarding adoptions and adoption agencies; and longtime presenter at local and national CLEs regarding assisted reproduction and adoption law.

I appreciate having the chance to appear in front of you to testify regarding SB 242 with the -1 Amendments and request that this statement be submitted for the record.

The Summary for SB 242 with -1 Amendments states: "Requires health benefit plan coverage of pregnancy care for surrogate mothers." Under the ACA, pregnant women cannot be denied health care insurance. Oregon, through its policies and law, including the Oregon Health Plan, has been in the forefront in providing health care for pregnant women. A number of years ago I served on the Board of Healthy Start of Washington County. There I learned that prenatal health care results in healthier pregnancies, which result in healthier babies, which result in healthier children, which result in children doing better in school, which results in adults who become more productive members of society. An end result which we can all support.

Beginning in the early 1990s in Oregon, increasing numbers of intended parents have used a surrogate to carry their intended and desired child. Since that time, surrogacy arrangements have become an accepted practice in Oregon. Advances in medical technology and updates to Oregon law support this practice. For example, in 2017, the Oregon Legislature passed SB 512 with amendments. Our law now defines assisted reproduction (ORS 109.239).

Deciding to become a parent is a momentous decision. For some, the path is easy. For others, it can be long, arduous, invasive, and expensive. Would-be parents who experience infertility face numerous obstacles. One such obstacle is the cost and availability of pregnancy health care insurance. For most Oregonians who want to become parents, they simply use their health care insurance and it pays for their pregnancy-related care, labor and delivery, and post-partum care. Not so for intended parents who use a surrogate to have that much-desired child. Their health care insurance will not cover their pregnancy. Yet, just like those other parents, they want a healthy pregnancy and a healthy child.

The issue before you is about the cost of pregnancy health care for intended parents and their child. Since the intended parents cannot use their own health care insurance, they must help their surrogate obtain health care insurance and they must pay her premiums. While health care insurers must cover the pregnancy, more and more of them are imposing a lien on funds received by the woman who is

a surrogate for intended parents. This results in the intended parents having to pay twice: they provide reimbursement and compensation to the surrogate for her expenses, pain and suffering, inconvenience, living expenses and her time spent being pregnant, and they must pay again for the pregnancy health care their surrogate receives. This is in addition to paying the premiums for the surrogate's health insurance. Were they able to carry their own pregnancy, this would not and could not, under the ACA and Oregon law, happen.

This increased cost means surrogacy is becoming less of an option for the average Oregonian. Depending on the cost of pregnancy-related health care for their surrogate and their child, intended parents may incur an estimated additional cost of between \$15,000.00 and \$50,000 (for pre-natal care, labor and delivery including the OB, and post-partum care). For some, this additional cost removes surrogacy as an option for them to become parents.

Interestingly, if the surrogate is not compensated, the same health care insurers do not impose a lien. Health insurance companies are selectively choosing to impose an additional cost on some intended parents. They should not be allowed to do so.

Which brings us back to the purpose of SB 242 with the -1 Amendments. It will require health benefit plans to provide coverage for a surrogacy pregnancy with no liens imposed, thus treating the pregnancy as the intended parents' pregnancy. Federal and Oregon laws already require the provision of health care insurance for pregnant women. It should not matter who carries the child and for whom. The pregnancy should be covered as if the intended parent(s) were carrying the pregnancy, with no liens imposed.

I encourage you to support SB 242 with -1 Amendments and move it to the Senate floor with a do pass recommendation.

Thank you for taking the time to consider my input on this important matter.

Sincerely,



Robin Elizabeth Pope

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Oregon Family Formation Lawyer