

AMA Queensland Response: Altruistic Surrogacy in Queensland



The Australian Medical Association (AMA) Queensland to submit the following response to the issue paper released by the Investigation into Altruistic Surrogacy Committee.

BACKGROUND

The Australian Medical Association's position statement on Reproductive Health And Reproductive Technology states:

- The AMA recognises that doctors may, if such arrangements are legal in their State or Territory, be called upon to assist in surrogacy arrangements.
- It is the doctor's responsibility to provide patients with information regarding the potential health risks and psychological consequences which can arise from surrogacy arrangements.
- Once such a pregnancy has commenced, the doctor's ethical and medical obligations to the surrogate mother and child are the same as those owed to any pregnant woman and her future child.
- In order for the child, the family, and their medical advisers to be medically informed throughout the child's life, the child should have a right of access to non-identifying information relating to the health and genetic background of the gamete donor.

DECRIMINALISATION OF SURROGACY IN QUEENSLAND

AMA Queensland supports the removal of legal restrictions and criminal penalties against altruistic surrogacy from the *Surrogate Parenthood Act 1988* (Qld). Further to this, AMA Queensland supports the introduction of suitable legislative arrangements which facilitate altruistic surrogacy in limited and defined circumstances. This includes the introduction of laws that facilitate the transfer of parentage to the commissioning parents and the legal recognition and enforcement altruistic surrogacy agreements.

STATE GOVERNMENT REGULATION OF ALTRUISTIC SURROGACY

AMA Queensland support the minimisation of government regulation in individual altruistic surrogacy arrangements. This will be achieved through the utilisation of existing nationally regulated and accredited Assisted Reproductive Technology (ART) units. ART units have a successful history of providing ART and In Vitro Fertilisation (IVF) treatments as part of surrogacy arrangements.

ART units are governed by the National Health Medical and Research Council (NHMRC) *Ethical guidelines on the use of assisted reproductive technology in clinical practice and research* (current to 2007), and the Reproductive Technology Accreditation Committee (RTAC) of the Fertility Society of Australia (FSA) *Code of Practice for Assisted Reproductive Technology Units*.

ART Units have a regulatory obligation of long-term record keeping therefore protecting the interests of the child with reference to access to birth records and genetic parentage. All pregnancy outcomes of ART units are nationally reported and audited by the AIHW and the National Perinatal Statistics Unit (NPSU).

The NPSU monitor the perinatal outcomes of assisted reproduction and assess the effectiveness of treatment. The regulatory model of ART units provide Queensland with a tested and effective means to manage surrogacy arrangements.

TYPES OF SURROGACY

AMA Queensland holds that only complete altruistic surrogacy (where both egg and sperm or embryo are in no way related to the surrogate) should be contemplated.

Surrogacy arrangements require extensive counselling, preparation and agreement prior to impregnation. The interests of the child are paramount and safety of the surrogate is also vital. New legislation should cater for many common and uncommon arrangements, including:

- Male/Male or Female/Female commissioning parents.
- One or both commissioning parents are serving a prison sentence.
- One or both commissioning parents are non-residents residing in Australia
- One or both commissioning parents deceased prior to implantation (e.g. frozen embryo with claim on an estate.)

RIGHTS OF THE COMMISSIONING PARENTS

The rights of the commissioning parents must be protected. Such agreements must, in the eyes of the law be contractual and enforceable in the situation of complete surrogacy. The merits of the proposed agreements are:

- The greatest moral and legal certainty is created
- This creates maximum certainty for the child in terms of defined parentage and long term care, especially in the situation of abnormality or illness
- The surrogate is protected, especially in such cases as medical care, expense reimbursement and is maximally protected in the event of untoward events such as pregnancy complications or death or separation of the commissioning parents.

GENETIC RELATIONSHIPS AND ALTRUISTIC SURROGACY

The genetic relationship of the parents and the child play a significant role in any potential surrogacy arrangements. AMA Queensland acknowledges that surrogacy arrangements may create very complex family relationships, and submits that **only** gestational (or full) surrogacy, where the implantation of an embryo is created with the egg from another women (either the commissioning mother or a donor) and the commissioning father's or a donor's sperm.

The concept of partial surrogacy (gestational carrier is also the provider of the oocyte) should be limited (possibly to within families). This is not surrogacy, but a combination of oocyte donation and becoming a gestational carrier. These terms should be clearly defined by any proposed amendments to the Act, and other acts such as oocyte donation should be clearly separated from full altruistic surrogacy.

In order for the child, the family, and their medical advisers to be medically informed throughout the child's life, the child should have a right of access to non-identifying information relating to the health and genetic background of the gamete donor.

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