PIVET MEDICAL CENTRE
The Miracle Of Life

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Attention: Associate Professor Sonia Allan

Review of the HRT Act 1991 & Surrogacy Act 2008

The HRT Act 1991:

From the perspective of PIVET as an IVF Facility:

Benefits –
- the only benefit we recognise from the Act is the Register of offspring, such that children can seek to clarify their origins (e.g. donor gametes);
- the Register also takes on the responsibility for "matching" donor and offspring and providing information to enquiring offspring.

Harms –
- duplication of oversight with RTAC;
- duplication of data reporting - same information required by different sectors;
- many of the bureaucratic processes demean the relevance of the medical practitioners, especially the Medical Director.

Specific Problems with the HRT Act:

i. *Part 3 Division 2 (22 d(i)):* Clearer legislation for couples that have separated where one gamete provider wishes to continue storage of the embryo(s) and the other does not. Also when couples have separated and one gamete provider is incapacitated or mentally cannot give consent to continue or not continue storage.

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ii. *Part 3 Division 2 (23):* Provision for patients to use IVF for oocytes frozen for social reasons requires clarification. Currently patients who freeze oocytes for social reasons may not be eligible for IVF treatment using those oocytes until fertility issues have been identified and alternatively managed. This appears to be an unnecessary and onerous penalty.

iii. *Part 3 Division 2 (23):* Clearer definition is required of what is considered age-related infertility. In 2003 we were admonished for "breaching" this section of the Act in two cases. We *"took it on the chin"* but are none-the-wiser for the reason of having to face the RTC penalty board. From our perspective this entire Section (23) is irrelevant.

iv. *Part 3 Division 2 (24) & Human Reproductive Technology Act Directions 2004; 6.10:* Clinics spend countless hours and resources trying to contact people whose storage of embryos or gametes are due to expire, often to no avail. More responsibility needs to be placed on the genetic owners to contact the clinic before storage periods end, as it is their genetic material and clinics are only storing it for them.

    Patients should be encouraged to take responsibility. Clinics should be entitled to discard embryos where payment are well in arrears and patients are not responding to communications from the clinic.

v. Consider moving to a system similar to the UK where gametes and/or embryos can be stored up until the woman's 55th birthday, and then must be allowed to succumb. With respect to sperm, aged 70 years should be considered final, thereafter discarded. Most men will cease paying storage fees well before, hence the clinic should be able tho make the decision about discarding even before age 70 years.

vi. *Schedule c11 & Human Reproductive Technology Act Directions 2004 2.18:* The submission of an annual report contains data that is submitted in the quarterly data submissions to the Department of Health. Need to streamline and restructure data submissions so that clinics are not submitting the same data multiple times.

vii. Quarterly data submissions also need to be restructured as data is submitted before any birth outcomes are known. The Department of Health has not requested birth outcomes since inception until 2018. Clinics have had to submit years worth of birth outcome data in 2018 due to this oversight. This is an immense job, especially considering the data is already available within the Department of Health's own births register. Such should be made accessible to the Maternal and Child Health Unit.

viii. *Human Reproductive Technology Act Directions 2004; 6.4:* There should be some provision to export embryos for some uses (e.g. donation or Surrogacy) which are currently not permitted under the Act in WA. Such scenarios should be considered for approval from decisions made by the Medical Director.

ix. *Human Reproductive Technology Act Directions 2004; 8.1 + 8.2:* Five (5) recipient family limit should be increased to 10 to come into line with the rest of Australia. This will allow more families to access limited donor material and enable easier compliance with adhering to family limits especially when donor gametes/embryos are sent interstate.

x. *Human Reproductive Technology Act Directions 2004; 8.7 + 8.8:* PGS/PGD cases should be exempt from this and not require written application to waive as these are always approved by council and waiting a month to get approval is bureaucratic delay holding up patient treatment.

xi. *Human Reproductive Technology Act Directions 2004; 9.9 + 9.10:* PGD cases should be exempt from needing approval from Council as long as there is the backing from a Clinical Geneticist to undergo PGD. Consideration of non-disclosure PGD as well as PGD for histocompatibility.

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xii. *Human Reproductive Technology Act Directions 2004; Schedule 2:* The data structure and reporting needs a complete overhaul. Data should be submitted in a similar format to the ANZARD data with similar reporting fields to reduce duplicate reporting. Data should only be reported if it is going to be used and is required.

xiii. *Human Reproductive Technology Act Directions 2004; Schedule 1 Forms:* Forms should be updated. Forms 4, 5, 6, 7 are obsolete. Data is provided in electronic format at the time of submission.

xiv. *RTC's ability to provide assistance and direction to Clinics:* RTC should be given more power to assist clinics in making decisions. Currently most queries are met with a standard response to *"seek your own independent legal advice"* The RTC is reluctant to give clinics any direction due to legal implications. This in itself defines the lack of relevance of the RTC under the HRT Act.

xv. The RTC should not involve itself in decisions about laboratory procedures such as ICSI.

Surrogacy Act 2008

Benefits –
- clarifies legal position for the Arranging Parents;
- provides opportunity for the Birth Certificate in the name of the Arranging Parents.

Harms –
- numerous onerous processes;
- we do conduct Surrogacy Arrangements via Cairns Fertility Centre and are aware that the processes in Queensland are much simpler and satisfying to all parties.

Specific Problems with the Surrogacy Act:

i. The Act in Western Australia, with layers of Counselling, makes the entire process extremely costly therefore only available to those with sufficient means (especially sufficient wealth).

ii. No opportunity for financial recompense if the application is not approved. Furthermore there is no provision to have advice about the likelihood of approval - enquiries from the clinic are always met with same response by RTC - seek legal advice! Clinics are not prepared to spend this money on behalf of the patients nor to seek recompense from patients.

iii. Much of the way the Surrogacy Act is conducted in WA demeans the relevance of the very experienced Clinical Practitioners who are attempting to assist patients.

iv. The definition of altruism is too restrictive – payment to the Surrogate should be enabled of around $10,000. A definition should be created which enables this recompense within the sense of Altruism.

v. Currently clinics are not allowed to provide information to external Surrogacy services under the rule of "facilitating any activity which would be deemed illegal in Western Australia". This again severely demeans the relevance of the medical practitioners who wish to provide important medical information about known allergies and known disorders which might affect fertility and pregnancy.

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Conclusion:

In conclusion we would believe that the people of Western Australia would be best served by adjusting the HRT Act and the Surrogacy Act enabling the RTC to be replaced by a small Agency which simply enables collecting the number of cases of IVF and Surrogacy managed in this state on an annual basis. The RTC should not involve itself in defining or overseeing clinical practices. We have not been impressed with the RTC's licensing processes and such should be entirely scrapped. Furthermore, the annual RTC report is a low quality document which does not reflect the extensive advanced processes, procedures and research being undertaken in the state of Western Australia. The bureaucracy developed in WA is a completely unfriendly hindrance to normal clinical practices which already function at the highest level achievable on any international scale. Any State desire to evaluate outcomes of IVF or Surrogacy should be obtained from the national ANZARD database which is a highly respected source. The annual ANZARD report supersedes the annual RTC report.

Kind regards,
Yours sincerely

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