

Surrogacy Faces Challenges in U.S., Other Nations

BY BETSY BATES

EXPERT ANALYSIS FROM A MEETING ON IN VITRO FERTILIZATION AND EMBRYO TRANSFER

SANTA BARBARA, CALIF. — Gestational surrogacy remains mired in legal limbo from state to state and nation to nation, despite its promise as a road to parenthood for the most difficult-to-treat infertility patients.

Resulting uncertainties have discouraged the majority of Society for Assisted Reproductive Technology (SART) member centers from performing surrogacy, to the detriment of patients in need, said Dr. Gabriel Garzo of the University of California, San Diego.

The number of surrogacy cycles reported by SART edged upward in 2008, a reversal of a 15.5% decline in 2007, he reported at the meeting sponsored by the University of California, Los Angeles.

Figures for 2009 are not yet available, Sean Tipton, director of public affairs for the American Society for Reproductive Medicine, said in an interview.

In 2008, there were 847 surrogacy cycles reported, not including those involving egg donation, which Dr. Garzo estimated may have added about 150 to the total. In 2005, 731 cycles were reported, followed by 784 in 2006, and just 662 in 2007.

Indications for surrogacy most often include an absent or non-functional uterus, medical conditions that pose a risk during



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pregnancy, repeated in vitro fertilization failure, and/or recurrent pregnancy loss.

Contracting with a surrogate in such cases offers the possibility of having a child that is genetically related to one or both members of a couple.

Medically, the practice is quite straightforward and similar to egg donation, said Dr. Garzo.

However, legal, ethical, and psychological challenges abound.

The majority of states have no statutes regarding surrogacy, and in a handful of jurisdictions, including Michigan, New York, and Washington, D.C., surrogacy contracts are considered a crime.

"In many states, genetic parents have to adopt their genetic child born to a surrogate mother," he said.

Monetary questions are always an issue. In Illinois, for instance, government bodies are debating the issue of whose health insur-

ance pays maternity benefits: the surrogate's or the "intended parent's" insurance?

In Wisconsin, insurance policies that cover maternity expenses cannot exclude coverage for women acting as surrogate mothers, that state's Supreme Court held.

Potential controversies are especially acute in the case of paid surrogacy, when compensation covers more than the surrogate's medical and health expenses.

Bitter legal disputes have arisen, in which egg donors, sperm donors, surrogates, and divorcing "intended parents" fight for custody in the absence of clear statutes, precedents, or federal guidelines.

Legal dilemmas have crossed international borders as well. In India, where surrogacy for couples around the world has become a \$445 million-a-year business, human rights activists have

questioned the practice of requiring some surrogates to remain in supervised dormitories with limited visits from their families. The citizenship of surrogate children born in Indian clinics has been called into question, as in the case of genetic twins of a British mother who were "stateless" for weeks when the United Kingdom determined they were Indian citizens and India declared them to be British citizens.

Intended parents from Germany and Japan also have faced challenges in having their genetic children recognized by their governments after surrogate births in India.

A Canadian couple who underwent DNA testing as part of the adoption of twins they assumed were their offspring discovered that they had no genetic link to the infants born to a surrogate in India. Those babies are now being raised in an orphanage, said Dr. Garzo.

Some American surrogacy agencies are under scrutiny as well, including one in Beverly Hills, Calif., that is being sued by seven couples from Spain who alleged that they were duped into spending hundreds of thousands of dollars for surrogacy contracts that never materialized.

In the midst of such turmoil, Dr. Garzo encouraged physicians who decline to participate in surrogacy to refer couples not to an agency, but to an ART center that performs surrogacy, since agencies are not subject to

any oversight or licensing requirements. "The professional psychosocial screening of surrogates and genetic parents is really essential to prevent potential problems," he said.

Surrogate medical screening is also necessary, but simpler, aiming at ensuring the candidate is healthy, is under age 35, and has a BMI of less than 30 kg/m², a normal uterus and uterine cavity, a low risk of placenta accreta, and at least one term pregnancy with no complications.

Single embryos should be transferred unless extraordinary circumstances exist, said Dr. Garzo.

Any legal contract must conform with state statutes or case law, and should include preconditions and consideration of health-related behaviors of the surrogate, as well as contingencies in the case of prenatal diagnosis of genetic or chromosomal abnormalities, birth of a child with disabilities, and/or death or divorce of any of the parties involved, he said.

Oversight of interactions between the surrogate and infertile couple should be mediated, the underlying premise being that the surrogate should bond with the couple rather than the child.

Several small studies have found that this goal is usually achieved, with no psychological problems detected in well-screened surrogates or commissioning mothers, Dr. Garzo said.

Dr. Garzo reported no relevant financial conflicts of interest. ■

Reports Shows Progress, Pitfalls in Women's Health Research

BY NASEEM S. MILLER

FROM A PRESS BRIEFING HELD BY THE INSTITUTE OF MEDICINE

WASHINGTON — Over the past 2 decades, women's mortality from cardiovascular disease and breast and cervical cancer has declined, thanks to research focused on women's health; however, little progress has been made in addressing debilitating conditions such as autoimmune diseases, addiction, lung cancer, and dementia, according to an Institute of Medicine committee.

"We are pleased with how much progress has been made, but there are some caveats," Nancy E. Adler, Ph.D., chair of the IOM Committee on Women's Health Research and director of the Center for Health and Community at the University of California, San Francisco, said at the press briefing.

Based on the report, "Women's Health Research: Progress, Pitfalls, and Promise," the committee recommended:

- ▶ Undertaking initiatives that increase research in high-risk populations of women;
- ▶ Ensuring adequate participation of women in research and analysis of data by sex; and
- ▶ Creation of a task force to communicate health messages about research results to women and prevent them from receiving conflicting messages from various venues.

Communication is one area in which office-based physicians can play an important role, translating research into their practices, said committee member Alina Salganicoff, Ph.D., vice president and director of women's health policy at the Kaiser Family Foundation.

"Their recommendations hold a lot of weight" with their patients, Dr. Salganicoff said.

The report comes 20 years after the creation of the Office of Research on Women's Health at the National Institutes of Health and 25 years after a Pub-

lic Health Service task force concluded that excluding women from medical research had compromised women's health care.

Before those landmark events, women were not included in research studies as often as men were because of concerns about fetal exposure to potentially harmful substances, the "flux" of hormones, and the assumption that research findings in men would translate to women, according to the report.

The committee found that requiring researchers to enroll women in clinical trials had resulted in advances, yet the benefit of increased participation by women has not yet reached its full potential because researchers usually don't separate the results by sex.

Committee members could not pinpoint why progress was made in some conditions and not others, according to the report, which offered possible explanations such as the extent of attention from government agencies,

interest from researchers, understanding of the condition, and political and social barriers.

In addition to major progress in cardiovascular diseases and breast and cervical cancers, the report noted that some progress had been made in reducing the burden of conditions such as depression, HIV/AIDS, and osteoporosis in women.

However, there has been little progress having an impact on conditions such as unintended pregnancy, maternal morbidity and mortality, autoimmune diseases, addiction, lung cancer, gynecologic cancers other than cervical cancer, and Alzheimer's disease, according to the report.

"Knowledge about differences in manifestation of diseases is crucial for further studies to identify the underlying biology of disease in women vs. men and to develop appropriate prevention, diagnosis, and treatment strategies for women," they wrote. ■