THE CENTER FOR BIOETHICS AND CULTURE NETWORK

Bill: Egg Donor Anonymity

AS INTRODUCED

An Act relating to the donation of human oocytes; requiring certain acts; creating civil liability; providing an effective date; and providing penalties.

SECTION 1. SHORT TITLE: This Act may be cited as the "Open Ova Act."

SECTION 2. ESTABLISHING DOCUMENTATION:

A. In the interest of protecting the physical, mental and emotional health of children, it shall be unlawful for any person, scientific entity, or business organization to procure human oocytes from a woman without adequate documentation of such donation (NOTE: see Section 3). It shall further be unlawful for any person to refer individuals to out-of-state oocyte harvesters or in-state referral services in order to procure or remove oocytes without adequate documentation.

B. Oocytes obtained from women volunteering as donors must have been donated with voluntary and informed consent and documented in writing, including all risks resulting from oocyte collection, such as infertility, hospitalization or death resulting from complications of human oocyte stimulation and extraction.

SECTION 3. ADEQUATE DOCUMENTATION: Adequate documentation means the recording of information by the oocyte collection agency or research facility including the following:

A. Whether the oocyte collection agency or research facility offers the following services:
    1) Egg donation;
    2) Sperm donation;
    3) Surrogacy (include gestational vs. biological and altruistic vs. commercial);
    4) Embryo donation;
    5) Pre-implantation genetic diagnosis;
    6) Sex selection;
    7) Egg sorting and/or grading;
    8) Fertility treatment for non-infertile persons;

B. The disposition of each egg, including whether the egg was:
    1) Frozen;
    2) Fertilized;
    3) Discarded because of poor quality; or
    4) Donated to research;
C. The method of disposal if eggs were discarded.
D. Whether informed consent was obtained before the egg was donated; and
E. Documentation of donors' informed consent for the disposition of their eggs or a copy of the informed consent agreement.
F. The total number of egg donors annually and the sum total for each oocyte collection agency or research facility.
G. The procedures by which donors are screened prior to acceptance into the oocyte collection agency or research facility's donor program, including any method of psychological screening.
H. The contact information for each donor, including name, electronic mail address, physical address, and phone number.
I. The medical information provided by each donor to the oocyte collection agency or research facility.
J. The procedures and the medication provided to each donor.
K. The rights of any future children created from a donor's egg, including:
    1) The mechanism in place to provide future children access to their medical, biological and genetic information; and
    2) The process whereby donors and future children may contact one another.
L. A calculation of payment for services per donor per year in total and documentation of funding sources, including but not limited to private insurance, as well as private, federal, and/or state funds.
    1) Whether the oocyte collection agency or research facility is a member of the American Society for Reproductive Medicine/Society for Assisted Reproductive Technology (ASRM/SART) and, if so, whether the entity adheres to ASRM/SART guidelines.
    2) Whether the oocyte collection agency or research facility is in compliance with CDC reporting requirements.
    3) Whether the oocyte collection agency or research facility is accredited and, if so, by what organization; and
    4) The process by which the oocyte collection agency or research facility advertises its services and recruits donors and customers.

SECTION 4. INFORMED CONSENT:

A. Oocytes obtained from women shall be donated with voluntary and informed consent, including a signed statement giving a child/children

born from their oocytes access to certain information, including detailed written information of the donor's health and genetic history.

B. Such informed consent shall be documented in writing and shall include medically accurate information regarding any and all risks of donation.

SECTION 5. CONFLICTS OF INTEREST: Medical clinics and research facilities must also disclose in writing any potential conflict of interest, including fiduciary duties, financial benefits, and referral agreements.

SECTION 6. CIVIL PENALTIES:

A. A civil action may be filed by any person entitled to receive information under the Act or by the [state] Attorney General in state court for any violation of this Act.
B. Any violation of this section shall constitute unprofessional conduct for a professional licensed in this state, who shall be remanded to the appropriate licensure board for review.
C. No female shall be subject to any penalty for being induced to accept or accepting valuable consideration for egg donation without adequate documentation.

SECTION 7. DEFINITIONS: For purposes of this Act:

A. DONOR: The term "donor" means a female who donates or sells eggs or oocytes to an oocyte collection agency or research facility.
B. EGG SORTING/GRADING: a process of rating oocytes based on chance of implantation, using criteria such as cell number, cell regularity, degree of fragmentation, presence of multinucleation, and appearance.
C. OOCYTE: The term "oocyte" means a female gamete or sex cell.
D. OOCYTE COLLECTION AGENCY: The term "oocyte collection agency" means a clinic or other facility, including an egg bank, that retrieves and stores human eggs mainly from egg donors, primarily for the purpose of achieving pregnancies through third-party reproduction, which pregnancies are typically achieved through artificial insemination.
E. RESEARCH FACILITY: The term "research facility" means a clinic or laboratory that collects and stores human eggs mainly from egg donors, primarily for the purpose of research.
F. SURROGACY:
    1) gestational: a surrogacy arrangement requiring the implantation of a previously created embryo.
    2) biological: a surrogacy arrangement using the surrogate's own oocyte.

3) altruistic: a surrogacy agreement in which the surrogate receives compensation equal to or less than the reimbursement of medical and other reasonable expenses.
4) commercial: a surrogacy agreement in which the surrogate receives compensation beyond the reimbursement of medical and other reasonable expenses.

G. VALUABLE CONSIDERATION: "Valuable consideration" means financial gain or advantage, including cash, in-kind payments, reimbursement of any cost incurred in connection with the removal, processing, disposal, preservation, quality control, storage, transfer, or donation of human oocytes including lost wages of the donor, endorsements, patient referrals, research donations, grant monies, as well as any other consideration, with the exception of reasonable medical expenses of the donor that are directly related to oocyte retrieval.

SECTION 8. EFFECTIVE DATE: This Act shall become effective (DATE).