Addendum to Testimony Re: Bill 20-32 Surrogacy Parenting Agreement Act of 2013
Testimony of Elaine Petty       June 28, 2013

I appreciated the opportunity to testify at the Hearing on the Surrogacy Parenting Agreement Act of 2013 on June 20. The importance of the Committee listening to all voices on this important issue before making a decision cannot be overstated. Therefore, I am submitting this addendum to further explain some of the points I made at the hearing and to underscore the fact that women’s health is being treated as a fair trade for the possibility of others’ ability to have a child.

A lucrative fertility industry has developed as the result of assisted reproductive technologies available today. Many who are benefitting from this commerce often say that there are few or no risks to the women who must take powerful hormones in order to produce the many eggs necessary for in vitro fertilization (IVF) and to prepare the surrogates who will receive the embryos. Nothing could be further from the truth. Concerns regarding the health risks of the egg donor and the surrogate, and questions about whether the decision is truly informed consent, are vital to examine if the Committee wants to consider all pertinent information and to protect all involved.

Fertility clinics and lawyers representing couples seeking to employ surrogates have a strong preference for women to serve as gestational surrogates, not traditional surrogates. A gestational surrogate uses the eggs harvested from yet another young woman and consequently has no genetic tie to the fetus, presumably making it less complicated legally for her to relinquish the baby once it is born.

There are real and potentially serious health risks and medical hazards that are associated with each step of the superovulation and egg retrieval process, as well as the hormonal preparation of the surrogate. In 2007, the Institute of Medicine (IOM) and National Research Council of the National Academies convened a group of medical experts to assess the medical risks of human oocyte donation. Their report states that “experience suggests that there are three main risks associated or potentially associated with the hormone treatment used in ovarian stimulation: ovarian hyperstimulation syndrome, cancer and effects on future fertility. Each risk has its own characteristics and its own implications for egg donors.”

There is no question that hormones have a powerful effect on the body. The IOM report references both the short-term and long-term risks of the hormones used for egg donation and surrogacy. The short-term risks are listed and classified. The long-term risks are not known because no longitudinal studies have been done. Surprisingly, the drug most commonly used - Lupron - is not approved by the FDA for use in IVF. Off-label usage of any drug is considered to be a “try at your own risk” scenario because it has not been studied for long-term safety. Pharmaceutical firms have not been required to monitor short or long-term safety data concerning incidence of cancer or other health conditions for off label fertility drugs. This is in spite of the fact that these have been used in the US for several decades now. The benefit to the couple desiring a child is out of proportion to the risks that young women take with their bodies for a procedure that is not necessary to save a life, but to create a life. This violates the foundational ethical principle of medicine: “First, do no harm.”
The IOM report highlights these concerns. "One of the most striking facts about in vitro fertilization is just how little is known with certainty about the long-term health outcomes for the women who undergo the procedure. There are no registries that track the health of the people who have taken part in IVF." The report continues, “it will be important in the coming years to accumulate extensive health data for women whose eggs are harvested and to monitor them for long-term effects. With more data it will be possible to quantify the various risks of oocyte donation much better than can be done today and to put numbers to the risks that a donor may face.” Egg donation began in 1983. Thirty years later we still have not put numbers to the risks, but we do have multiple examples of women whose health has been severely compromised.

By way of comparison, in 2006 five Americans died as a result of eating spinach contaminated with E. coli. Ruby Trautz, an 81-year-old Nebraska woman, was the first to die. Two weeks later, the Food and Drug Administration took an unprecedented step by telling Americans to stop eating bagged spinach and even fresh spinach until its safety could be assured. Products were recalled and spinach quickly vanished from grocery shelves, salad bars and menus. The outbreak would ultimately cost the industry more than $350 million. Why do we take such rapid, costly and precautionary steps with our food, yet are willing to continue to allow young women to inject themselves with hormones that have been shown to potentially do great harm, without stopping or even slowing the process, or studying the information that could protect them? Legalizing surrogacy will increase the number of fertile young women exposed to these unnecessary health risks.

A second area of concern for the women who are contributing parts of their bodies for this transaction to occur is the issue of informed consent. When egg or surrogate candidates are told the hopes of donation and surrogacy without full disclosure of the hazards, it is impossible for them to weigh the risks and make a truly informed decision. Potential contributors who ask are told, "there are no known long-term risks." They are unlikely to understand that this is not the same as, "We’ve done the studies and know that there are no long term risks." And when the candidates enter the process drawn by the sizable amount of money on the table, they have often emotionally moved toward making the decision before hearing the possible perils. This makes it nearly impossible to evaluate the risks even if they are later presented. If the risks are omitted or understated initially, they will often proceed toward their original decision even after hearing them. This is not true informed consent.

In my testimony presented at the Hearing, I opposed the passage of Bill 20-32 due to the concerns of commodification, exploitation, breaking of biological bonds and creation of dissonance in healthy sociological structure that surrogacy creates. I further appeal to the Council Members to consider stopping this Bill because it is unethical and medically irresponsible to gamble with the health and fertility of our young women in Washington, DC for the sake of others who want to have a child. These are some of the reasons most other countries ban and even criminalize surrogacy. As a DC resident, I want to be able to be proud of our city as one that leads in respecting and protecting all people, especially women. One group of people should never gain at the expense of another.
References


