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Associate Professor Sonia Allan
ART Act Review
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Dear Associate Professor Allan

Thank you for offering the South Australian Premier's Council for Women (PCW) the opportunity to submit comments to the South Australian Government review of the *Assisted Reproductive Treatment Act 1988* (the ART Act).

PCW, a high level independent advisory body to the Premier of South Australia and the Minister for the Status of Women on issues relating to women, aims to facilitate a whole of government approach to meeting the needs of women in South Australia. The views expressed in this submission are those of PCW and do not necessarily reflect those of the South Australian Government.

Welfare of the Child

PCW supports the continued application of the paramountcy of the welfare of the child principle as currently stated in the ART Act. It is recognised that this principle leads to closer examination of potential parents and a possibility that screening of potential parents (specifically parents not third party donors) will become standard. Such screening must be forward looking to a large degree which may be difficult for some practitioners; nonetheless it is important that the welfare of the child born through assisted reproductive technology (ART) and their future is always considered.

Any screening of potential parents which results from the paramountcy principle must remain objective. Parents should not be discriminated against because of subjective screening practices of individual ART clinics. The notion of 'harm to the child' should be defined in some way to ensure that any screening process carried out by practitioners is objective and does not discriminate against potential parents for subjective reasons such as perceived ability or disability, cultural/ethnic/racial background or sexual orientation and gender identity.

The South Australian Government should also ensure that ongoing support is provided to both children born through ART and their parents for psychological or emotional issues which may occur in the future. The paramountcy principle should be recognised as encompassing all aspects of the child's future. The South Australian Government must recognise that the paramountcy principle in the ART Act creates an ongoing duty of care to families using ART and persons born through ART.

The welfare of the child principle should encompass the ongoing welfare of the person born through ART including the right to knowledge of their genetic parentage. As such, the South Australian Government should develop the donor register which is provided for in the ART Act. The paramount welfare of the child must extend beyond birth and create a right to information which may affect the future health and welfare of the person. As such, the welfare of the child principle should include recognition of the wishes of the child with regard to identifying third party donors. The identity of third party donors should be revealed to adults born through ART at that person's request and the third party donor should be made aware of this possibility before any donation procedure occurs.

Recommendation 1:

Standardise screening of potential parents ensuring this remains an objective process and individual clinics are not able to discriminate against potential parents for subjective reasons such as perceived ability or disability, cultural/ethnic/racial background or sexual orientation and gender identity.

Recommendation 2:

Allow for persons born through ART to access information to identify the third party donor in their ART procedure.

Registration scheme for ART Clinics

PCW does not have the practical understanding of the current or previous registration systems to accomplish an in depth review; however, it is important that registration standards are in no way lowered as a result of the current review of the ART Act. Any discrepancies or gaps between the national guidelines and the requirements in South Australia must be overcome through South Australian Government regulation.

Recommendation 3:

The South Australian Government ensures that at least the current high standards of the registration process for ART Clinics is maintained.

Dissolution of the SACRT and the Code of Ethical Clinical Practice

Similar to the above, PCW recommends no watering down of guidelines occur; the South Australian Government should address any conflicts or gaps between South Australian practice and the National Health and Medical Research Council Ethical Guidelines.

Any ethical oversight must be able to respond to changes and advances in technology and policy as well as more specific clinical issues for which providers might seek ethics advice. PCW

understands that there is currently no industry level ethical advice mechanism for providers and this is likely to be necessary, especially if screening processes are developed. Any ethical advisory body needs to be independent and include members with relevant expertise in ethics and child development as well as clinical expertise.

Recommendation 4:

The current level of ethical oversight should be maintained and any conflicts or gaps between the NHMRC Ethical Guidelines and South Australian practice be addressed through South Australian regulation.

Recommendation 5:

An ethics advisory body such as the Ethics Health Advisory Council should be authorised to provide industry oversight in South Australia.

Access to Assisted Reproductive Treatment

PCW fully supports the recommendations of the South Australian Law Reform Institute that discrimination against individuals based on grounds of sexual orientation and gender identity or intersex status be removed from South Australian legislation. It is in the interest of South Australia to follow the Victorian Government lead in this matter and allow ART to be available to women unlikely to become pregnant other than by ART procedures. This would allow women in same sex relationships and single women to access ART. In our modern South Australian community, there is no good reason to deny any woman access to ART where it is the only opportunity for her to become pregnant. ART must also remain available to people using both the public and private health systems.

Recommendation 6:

Change the current restrictions on who is able to access ART in the ART Act to mirror the Victorian legislation which allows all women the possibility to access ART.

Ensure equity of access to ART for couples using either/or the public or private health system.

Donor Conception Register

As previously mentioned PCW supports the development of the donor register which is already within the power of the Minister under the ART Act.

Recognising the overarching statement of the welfare of the child in the ART Act, the Minister should establish and maintain a donor register for the information of the South Australian Government and the future needs of children born by ART (which may include medical, emotional and/or psychological needs). People considering donating to an ART procedure should be made aware that their information will be kept on the register and any child born from their donation may be given their contact information at a future time, before they agree to donate.

Recommendation 7:

Develop and maintain the donor register under the ART Act.

Thank you again for the opportunity to comment on the review.

We look forward with interest to reading the final recommendations.

Yours sincerely,



Ms Amanda Blair
Co-Chair
Premier's Council for Women



Ms Christine Zeitz
Co-Chair
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