For discussion
on 15 December 2014

Legislative Council Panel on Health Services

Prohibiting Advertisement of
Sex Selection through Reproductive Technology Procedures

PURPOSE

This paper briefs Members on the Administration's proposal to amend the Human Reproductive Technology Ordinance (HRTO) (Cap. 561) to prohibit advertisements related to provision of sex selection services through reproductive technology (RT) procedures.

BACKGROUND

Existing Regulatory Regime on RT

2. In 1996, a public consultation exercise was launched to seek the public's views on the proposed Human Reproductive Technology Bill, which aimed to regulate RT procedures and the use of embryos and gametes; to confine the provision of RT procedures to infertile couples; to regulate surrogacy arrangements; and to provide for matters connected therewith, including the prohibition of sex selection using RT procedures. Except for a few respondents who suggested that sex selection should be prohibited completely, majority of the respondents agreed that sex selection should not be allowed except on genuine medical grounds. They were concerned that allowing sex selection for babies involving RT would create social problems such as perpetuating sex discrimination, adverse effect on other child/children of the family and encouragement of eugenics, and upsetting the sex ratio in the population.

3. With the enactment of the HRTO in 2000, the Council on Human Reproductive Technology (CHRT) was established under section 4 of the Ordinance as the statutory authority to regulate the provision of

RT procedures; the conducting of embryo research; the handling, storing or disposing of gametes or embryos used or intended to be used in connection with a RT procedure or embryo research and surrogacy arrangement. The CHRT has also promulgated the Code of Practice on Reproductive Technology and Embryo Research to provide detailed guidelines for licensed RT service providers.

4. At present, section 15(3) of the Ordinance stipulates that –

> "No person shall, by means of a reproductive technology procedure, cause the sex of an embryo to be selected, whether directly or indirectly (including by the implantation of an embryo of a particular sex in the body of a woman), except where-
>
> (a) the purpose of such selection is to avoid a sex-linked genetic disease specified in Schedule 2 which may prejudice the health of the embryo (including any foetus, child or adult which may arise from the embryo); and
>
> (b) not less than 2 registered medical practitioners each state in writing that such selection is for that purpose and such disease would be sufficiently severe to a person suffering it to justify such selection."

The list of sex-linked genetic diseases specified in Schedule 2 to HRTO is at **Annex**.

5. In addition, the Code of Practice promulgated by the CHRT requires a licensed treatment centre providing such services to provide counselling to couples concerned, and to report such cases to the Council within three months after the procedure has taken place.

Advertisements on Sex Selection Services Using RT

6. In recent years, the CHRT is concerned about an increase in local press advertisements and promotion leaflets on the availability of sex selection services using RT overseas. Apart from concern of the CHRT, the medical profession also expressed concern on the progressive

promotional activities on a service which is prohibited under the HRTO and whether there is sufficient control over these advertisements.

7. At present, sections 16(2) and 17(2) of the HRTO prohibit advertisements of RT services relating to surrogacy arrangement and commercial dealings of embryos and gametes. However, the Ordinance does not contain similar provisions to prohibit advertisement on sex selection services through RT procedures. For the overall well-being of the society and to rectify the inconsistency, we consider it necessary to amend the law in this regard.

LEGISLATIVE PROPOSAL

8. We are planning to introduce legislative proposal to –

(a) amend section 15 of the HRTO to prohibit advertisements on sex selection services through RT, irrespective of whether the services are provided within and outside Hong Kong; and

(b) impose a penalty on those who are in contravention of the above.

9. As for paragraph 8(a) above, we intend to regulate advertising on sex selection services through RT procedures on all media (including the Internet). Regarding paragraph 8(b), the proposed level of penalty is in line with those relating to commercial dealings of embryos/gametes and surrogacy arrangement under section 39(1) of the HRTO.

CONSULTATION

10. We have consulted the CHRT and Council members support the proposal to amend the HRTO to prohibit advertisements on provision of sex selection services using RT, including those circulated through the Internet.

11. We consulted stakeholders on the proposal in June 2014, covering institutions providing RT services licensed by the CHRT, public and private hospitals, medical, health and legal related professional bodies, specialists in Obstetrics and Gynaecology, Reproductive Medicine and Surgery (Urology), the academia, family and social services associations, the Consumer Council and media agencies. We received a total of 15 submissions by the end of July 2014. Most of the respondents supported the proposal to tighten control under the HRTO in this regard.

NEXT STEP

12. We plan to introduce the legislative proposal to the LegCo in the first half of 2015.

Food and Health Bureau
December 2014

Annex

Extract of
Schedule 2 to Human Reproductive Technology Ordinance

List of Sex-linked Genetic Diseases

Addison's disease with cerebral sclerosis (Addison 病(並有腦硬化))
Adrenoleucodystrophy (腎上腺白質營養不良)
Adrenal hypoplasia (腎上腺發育不良)
Agammaglobulinaemia, Bruton type (血球蛋白血病(Bruton 型))
Agammaglobulinaemia, Swiss type (血球蛋白血病(瑞士型))
Albinism, ocular (眼部白化病)
Albinism-deafness syndrome (白化病一耳聾綜合症)
Aldrich syndrome (Aldrich 綜合症)
Alport syndrome (Alport 綜合症)
Amelogenesis imperfecta, hypomaturation type (釉質生長不全(成熟低下型))
Amelogenesis imperfecta, hypoplastic type (釉質生長不全(發育不良型))
Anaemia, hereditary hypochromic (遺傳性低色數性貧血)
Angiokeratoma (Fabry's disease) (血管角質瘤(Fabry 病))
Cataract, congenital (先天性白內障)
Cerebellar ataxia (小腦共濟失調)
Cerebral sclerosis, diffuse (擴散性腦硬化)
Charcot-Marie-Tooth peroneal muscular atrophy (Charcot-Marie-Tooth 腓骨肌萎縮症)
Choroideraemia (無脈絡膜症)
Choroidoretinal degeneration (脈絡膜視網膜變質)
Coffin-Lowry syndrome (Coffin-Lowry 綜合症)
Colour blindness, Deutan type (色盲(綠色系列型))
Colour blindness, Protan type (色盲(紅色系列型))
Diabetes insipidus, nephrogenic (腎原性尿崩症)
Diabetes insipidus, neurohypophyseal (尿崩症(神經垂體型))
Dyskeratosis congenita (先天性角化不良)
Ectodermal dysplasia, anhidrotic (外胚層發育不全(無汗型))
Ehlers-Danlos syndrome, type V (Ehlers-Danlos 綜合病(第 V 類型))
Faciogenital dysplasia (Aarskog syndrome) (面生殖發育不全(Aarskog 綜合症))
Focal dermal hypoplasia (X-linked dominant, male lethal) (局灶性皮膚發育不良(與 X 染色體有關連的顯性，對男性而言可致死))
Glucose 6-phosphate dehydrogenase deficiency (葡糖 6 磷酸脫氫酶缺乏)
Glycogen storage disease, type VIII (糖原貯積症(第 VIII 類型))
Gonadal dysgenesis (XY female type) (性腺發育不全(XY 女性類型))
Granulomatous disease (chronic) (慢性肉芽腫病)
Haemophilia A (血友病 A)
Haemophilia B (血友病 B)
Hydrocephalus (aqueduct stenosis) (腦積水(中腦水管狹窄))
Hypophosphataemic rickets (低磷酸血性佝僂病)
Ichthyosis (steriod sulphatase deficiency) (魚鱗癬(steriod sulphatase 缺乏))

Incontinentia pigmenti (X-linked dominant, male lethal) (色素失節症(與 X 染色體有關連的顯性，對男性而言可致死))
Kallmann syndrome (Kallmann 綜合症)
Keratosis follicularis spinulosa (Spinulosa 毛囊角化病)
Lesch-Nyhan syndrome (hypoxanthine-guanine-phosphoribosyl transferase deficiency) (Lesch-Nyhan 綜合症(次黃嘌呤—鳥嘌呤—磷酸核糖轉移酶缺乏))
Lowe (oculocerebrorenal) syndrome (Lowe (眼腦腎)綜合症)
Macular dystrophy of the retina (視網膜黃斑營養不良)
Menkes syndrome (Menkes 綜合症)
Mental retardation, FMRI type (智力遲緩(FMRI 型))
Mental retardation, FRAXE type (智力遲緩(FRAXE 型))
Mental retardation, MRXI type (智力遲緩(MRXI 型))
Microphthalmia with multiple anomalies (Lenz syndrome) (小眼症(並有多種畸型) (Lenz 綜合症))
Mucopolysaccharidosis II (Hunter syndrome) (黏多糖貯積病 II (Hunter 綜合症))
Muscular dystrophy, Becker type (肌營養不良(Becker 型))
Muscular dystrophy, Duchenne type (肌營養不良(Duchenne 型))
Muscular dystrophy, Emery-Dreifuss type (肌營養不良(Emery-Dreifuss 型))
Myotubular myopathy (肌小管肌病)
Night blindness, congenital stationary (先天性靜止性夜盲症)
Norrie's disease (pseudoglioma) (Norrie's 病(假性神經膠質瘤))
Nystagmus, oculomotor or 'jerky' (眼球震顫(眼球運動的或抽動的))
Ornithine transcarbamylase deficiency (type I hyperammonaemia) (鳥氨酸胺甲酰轉移酶缺陷症(高氨血症第 I 類型))
Orofaciodigital syndrome (type I) (X-linked dominant, male lethal) (口一面一指(趾)綜合症(第 I 類型)(與 X 染色體有關連的顯性，對男性而言可致死))
Perceptive deafness, DNFZ type (感覺性聾症(DNFZ 型))
Perceptive deafness, with ataxia and loss of vision (感覺性聾症(並有共濟失調和喪失視力))
Phosphoglycerate kinase deficiency (磷酸甘油酸激酶缺乏)
Phosphoribosylpyrophosphate (PRPP) synthetase deficiency (磷酸核糖焦磷酸合成酶缺乏)
Reifenstein syndrome (Reifenstein 綜合症)
Retinitis pigmentosa (視網膜色素變性)
Retinoschisis (視網膜裂)
Spastic paraplegia (痙攣性痲痺)
Spinal muscular atrophy (脊椎肌萎縮)
Spondyloepiphyseal dysplasia tarda (遲發性脊椎骨骺發育不全)
Testicular feminization syndrome (睪丸女性化綜合症)
Thrombocytopenia, hereditary (遺傳性血小板減少症)
Thyroxine-binding globulin, absence or variants of (甲狀腺素一結合球蛋白缺乏或變種)
Xg blood group system (Xg 血型系統)