

Presentation to Bills Committee on Human Reproductive Technology Bill

Tuesday 23 February 1999

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Items to be addressed

Item 1.

Part II. 3. Establishment of Council on Human Reproductive Technology

3. (3) (a) (ii) states that ... "The Chief Executive shall not appoint the person responsible under licence or the licensee to be a member of the Council".

The duties of a licensee are described in Part IV Section 22. The licensees are likely to be those who are most experienced in Human Reproductive Technology in Hong Kong. Our interpretation is that although these individuals could sit on sub-committees, they will be excluded from Council.

Our concern is that this will deprive the Council of expertise that will be essential when complex and controversial issues are under discussion.

Consideration could be given to allowing at least one licensee to be included in the composition of Council.

Item 2.

Part II 4. Functions and Powers of Council.

4. (1) (b) (ii) states that "The Council shall publish or otherwise make available statistics and summaries concerning relevant activities which have been carried on."

One interpretation of this item is that success rates of individual units may be made available to the public. If so, this could influence the referral pattern to individual units. However, each unit may have special interests or expertise that may affect their success rates. For example, individual units may choose different age cutoffs for treatment, and this will affect success rates.

Consideration could be given to providing figures which do not identify individual units, as is established practice in some overseas countries.

Item 3.

Part III 13. Prohibitions in connection with embryos, against sex selection and against the provision of reproductive technology procedures to unmarried persons.

13. (5) states that " No person shall provide a reproductive technology procedure to persons who are not parties to a marriage except in the circumstances specified in regulations made under section 42(2)(e).

The Human Reproductive Technology Bill will confine treatments to married couples. We agree that this is a controversial area, and we hold no personal view about this issue. We are aware, however, that to confine treatment to married couples is not universal practice.

In New South Wales, Australia, for example, I have been told that in vitro fertilization is offered to couples who have been in a stable de facto relationship for 2 years. Donor insemination is also provided for single women who may have no partner. I am told that this decision results from the understanding that to refuse treatment would be to invite a challenge through the Antidiscrimination Board of New South Wales. I have been told that such a challenge would almost definitely be successful.

Consideration may be given to allowing treatment for those individuals who are not married. Otherwise, consideration may be given to defining the term "married".

Item 4.

Part V 30. Register A

30. (1) This item states that ... "the Council shall keep and maintain a register which shall contain any information obtained by the Council which falls within subsection (2). Our interpretation is that the data referred to in subsection (2) includes identifying information about couples receiving treatment.

If the Council is to keep identifying information, a mechanism will need to be put in place to transfer the data to Council and keep it secure. This will be time consuming, expensive and may carry a risk of leakage of confidential information.

Consideration could be given to stipulating that each licensee must keep the necessary information and furnish non-identifying data to the Council as required.

Item 5.

Part V 30. Register A

30. (2) (ii) implies that for donor insemination, information shall be kept in the register pertaining to an "identifiable individual".

Our interpretation of this item is that information must be kept on sperm donors that could (if need be) identify the donor. In Hong Kong, it is difficult to attract sperm donors and maintain a sufficiently large pool of donors. However, there are many commercial organizations overseas that can supply donor sperm and there is a demand for this from couples in Hong Kong. At present, couples are arranging for sperm to be imported from overseas, but the donor is not "identifiable".

Depending upon the information required for the register, importation of sperm from overseas may cease to be possible. This would prevent couples from being treated.