

**LETTERHEAD OF DEPARTMENT OF OBSTETRICS & GYNAECOLOGY THE
CHINESE UNIVERSITY OF HONG KONG**

October 15, 1998

Au Yun-Kan
Secretary
Co-ordinating Committee in
Obstetrics & Gynaecology
Hospital Authority
Room 528, 5th Floor, North Wing
Hospital Authority Building
147B Argyle Street, Kowloon
Hong Kong

Dear Mr Au,

I write to you in reply to your letter of 7th of October inviting comments on the proposed Human Reproductive Technology Bill. I write this letter on behalf of myself and members of my staff including clinicians, scientists and nurses involved in the management of patients presenting for treatment involving Human Reproductive Technology.

May I begin by saying that we fully support the introduction of such a Bill, and that in our opinion most aspects of this Bill are both correct and timely. We do, however, have some serious concerns about certain aspects of the proposed Bill that I will outline below:

(1) **Part II**

Section 3. Establishment of Council on Human Reproductive Technology.

It states in part (3)(ii) that the Chief Executive shall not appoint the persons responsible under licence or the licensee to be a member of the Council. It is certainly our understanding that similar bodies overseas include representatives of the units themselves as well as patients involved in these treatments, and in this respect we believe that Hong Kong should consider similar representation. In our opinion, Directors of Reproductive Technology Units should be included on the Council, as these are the only individuals with the necessary expertise to give advice and provide explanation on the spot concerning details related to patient care. Assisted Reproductive Technology is a complex area, and we believe that it is essential that there be representation from the units themselves. We agree that it is important that those carrying a licence should not have undue influence on the Council, but it is difficult to understand how this would be possible considering the large size of the Council. If there are concerns in this area, we would also suggest that a lay person who has undergone or is still undergoing Assisted Reproductive Technology treatment also be included on Council, as only such a voice could describe to Council the advantages and disadvantages of these treatments from the consumer point of view. It may also be wise to consider the inclusion of at least one scientist on the Council to provide expert advice when necessary.

(2) **Part II**

Section 4. Functions and Powers of Council.

Item (b)(ii) states that the Council shall publish or otherwise make available lists of statistics and summaries concerning relevant activities which have been carried on. However, if success rates for individual units were made available to the public, this would create a situation whereby each unit would want to make their figures look better than other units, as such figures would act as a surrogate advertisement for the units themselves. Patients would clearly want to go to the units with the best figures, but these units may only have better figures because of a more selective treatment policy. Often units collect their statistics in different manner anyway, but if uniform statistics are required and made public, this practice could lead to more selective patient screening by the units with the aim of improving success rates. This in turn could prevent many couples from being treated, and even force them away from public into private care. Couples with more difficult problems (who are possibly more deserving of these treatments) could then be prevented from being treated at all.

In other countries, information is displayed through the release of pooled data or in a manner in which units are not identified individually. We are quite happy for Council to discuss the figures of individual units, but we strongly suggest that the pooling of data for release to the public be considered in Hong Kong.

(3) **Part III Section 13**

Item (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).

To confine these treatments to couples who are married and to prohibit it to those couples in an unmarried relationship is discriminatory, and it is our understanding that similar legislation has been legally challenged with success overseas. Is it correct to ban unmarried couples from being treated when it is legal for unmarried couples to have children naturally in Hong Kong? To enforce this item may be to invite successful legal challenges.

(4) **Part V Section 30 Register A**

This item suggests that Council shall keep and maintain a register which shall contain any information obtained by the Council which falls within Subsection (2). This implies that the Council will keep information including that related to the use of donor gametes or embryos. It is a concern to us that the Council rather than the individual units will keep such information, and there are also practical difficulties involved in the transfer of such data and its security. Who will be held responsible if information is inadvertently released, for example, about the treatment of a couple with donor sperm? How will security be maintained and will a uniform security code be in place? Could members of each unit who treated a couple be held liable in later years if the Council released information relating to the use of donor gametes?

Another problem is that of donor sperm obtained from overseas by couples for use in Hong Kong. This is happening because donor sperm is very hard to come by in Hong Kong, and the demand from patients is high. There will also be a limit to the number of offspring allowed by one sperm donor in Hong Kong. Appropriately screened sperm is available commercially overseas and can easily be shipped into Hong Kong. This allows many couples to have treatment who would otherwise remain infertile. The data required

by the Licencing Body may not be available for sperm obtained from overseas, and this would prevent donor sperm from being imported. This would prevent couples from having treatment here, and we suggest that this matter be considered in the final drafting of the Bill.

These are our major concerns relating to the proposal Bill. Although we have some other minor disagreements with the content of the Bill, what we have stated here are the most important items and we strongly request that these items are given serious consideration before the Bill is passed. Please be assured that our sole intention is to help the Committee who are responsible to produce a Bill which is the best possible for Hong Kong. In this respect, if you require further input from our Department, I suggest you contact Professor Christopher Haines, who ha experience and expertise in this area,

Yours sincerely,

Professor AMZ Chang
COS & Chairman

cc: Dr CH Leong
Ms Doris Chan
Prof JCK Lee