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भारत सरकार/Government of India

स्वास्थ्य और परिवार कल्याण मंत्रालय/ Ministry of Health & Family Welfare

स्वास्थ्य अनुसंधान विभाग/ Department of Health Research

(एआरटी और सरोगेसी प्रभाग /ART and Surrogacy Division)

2nd Floor, IRCS Building

Red Cross Road, New Delhi – 110001

Dated: 28th June, 2024

ADVISORY

Subject: Advisory regarding permission for transfer of own embryos/gametes within or outside India for personal use u/s 29 of the ART Act, 2021.

The Assisted Reproductive Technology (Regulation) Act, 2021 and Surrogacy (Regulation) Act, 2021 have been enacted by the parliament and have come into force with effect from 25.01.2022.

2. Attention is drawn to Section 29 of the ART Act which reads as under:

“The sale, transfer or use of gametes, zygotes and embryos, or any part thereof or information related thereto, directly or indirectly to any party within or outside India shall be prohibited except in the case of transfer of own gametes and embryos for personal use with the permission of the National Board.”

3. Further attention is drawn to para 19 of the ART (Regulation) Amendment Rules, 2023 dated 24.02.2023 which prescribes the forms for obtaining requisite information from applicant(s) for transfer of their gametes and embryos for personal use within or outside India. The said section reads as under:

*“Whoever intends to transfer own gametes and embryos for personal use within or outside India under section 29 of the Act, shall apply or furnish declaration in **Forms 16 to 24**, as may be applicable and obtain the prior permission of the National Board.”*

4. Vide aforesaid sections the National Board is empowered to decide the cases pertaining to transfer of own embryos/gametes for personal use within and outside India. The applicant(s) shall apply to the Department by furnishing the requisite information in the prescribed format along with supporting documents as applicable in their case.

5. In this regard, it has come to the notice of this Department that some individuals/ couple are being facilitated through clinics to engage lawyers/advocates and some of them have been approached directly by lawyers/ advocates offering services for processing of the applications for the transfer of embryos/gametes.

6. Para 19 of the ART Rules, 2023 mandates that the person(s) who intend to transfer their embryos/gametes shall apply directly and obtain permission of the National Board. The procedure of applying for transfer of own embryos/gametes within or outside India as per section 29 of ART Act involves screening and processing of the applications

by this Department, seeking recommendations of Expert Members of the National Board and final decision on the applications by the National Board. **There is no requirement of engaging advocate/ lawyer or any other agent for the said purpose and no personal appearance of the applicant or a legal representation is required at any stage of processing of the application for transfer of embryos/gametes.** All the correspondences/communications of this Department (if required) are done directly with applicant(s) through emails.

7 . The decision of the National Board is based on the fulfilment of the criteria prescribed in para 19 of the ART Amendment Rules, 2023 (Annexure-I). If the applicant fulfils the criteria permission is granted and if the criteria is not fulfilled by the applicant or there appears to be a violation of any provision of the Act & Rules made thereunder, then the permission is rejected. So far, permission in 570 cases has been granted by the National Board, wherein barring a few, the applicants have applied directly to the Department without any legal representation.

8. Please be advised that the applications for transfer of embryos/ gametes within or outside India do not require any legal representation.

9. Any queries regarding application procedure for transfer of own embryos/gametes within or outside for personal use, may be emailed on support-artsurrogacy@gov.in.

10. This issues with the approval of competent authority.


28.06.2024.

(Sanjeev Singh)

Under Secretary to the Government of India
Telephone: 23736902

To: All Nodal officers- ART Surrogacy (States/UTs)

Copy to: NIC for uploading at website / National Registry Portal for general awareness.