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The Secret of Healing in the Use of Assisted Reproductive Technologies and Fundamentals of Security of Information

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ABSTRACT

This article provides a comparative analysis of adoption and the use of assisted reproductive technologies. The preservation of information about the birth of a child using assisted reproductive technologies through medical secrecy will be considered. It is analyzed in which cases such information can be disclosed. The types of responsibility for disclosing medical confidentiality will be considered, as well as proposals and recommendations for improving the legislation on medical confidentiality and confidentiality of information, which is special in relation to information about the origin of children when using ART, will be made.

Keywords:

adoption; assisted reproductive technologies; secret of adoption; secret of origin when using assisted reproductive technologies; medical secrecy; responsibility for divulging medical secrets..

Introduction

The family is also a small society, and the union of a man and a woman is the basis of this society. A family consists of children born from the union of one woman and a man or several women and men, and there are mutual rights and obligations between them, and these rights and obligations are regulated by customs or laws [1]. Parents and children form the core of the family. Because of this, family disputes are connected with childlessness and the increase in the number of families suffering from infertility.

Discussion

According to international experts, the prevalence of infertility among couples of reproductive age in the world is on average 13-15 percent. Infertility leads to socio-psychological discomfort of spouses, conflicts in the family, and an increase in the number of

divorces. Persons suffering from infertility are prone to emotional experiences, as a result of which their social activity and work ability weaken.

Analyzes conducted in our republic show that 4.7 percent of divorces in recent years are due to couples' infertility. According to the results of conducted studies, women suffering from primary infertility make up 4.9 to 5.3 percent of the total number of married women. These numbers clearly show the importance and necessity of introducing assisted reproductive technologies in order to preserve families in Uzbekistan.

In our country, in order to prevent decisions arising from family childlessness, adoption of a child, keeping a child's naturalization into the family a secret is protected by law. According to our legislation, the persons who disclosed the secret of adoption against the will of the adopter or

guardianship and sponsoring body shall be held responsible in accordance with the law[2]. Today, the use of assisted reproductive technologies is one of the ways to solve the problem of childlessness, along with adoption.

The following main sources of regulation of assisted reproductive technologies can be indicated: Law of the Republic of Uzbekistan No. 528 of March 11, 2019 "On Protection of Reproductive Health of Citizens"; The Regulation "On the Procedure for the Use of Assisted Reproductive Technologies" dated January 14, 2020, adopted on the basis of this law.

However, these are not enough to regulate such complex legal relations. Because both medical and legal issues need to be resolved, on the one hand, if it is necessary to keep the secrets of the use of assisted reproductive technologies, for example, the secrets of donation or surrogate motherhood, on the other hand, it is necessary to regulate problems such as preventing the disclosure of medical secrets or secrets related to medical treatment

The use of assisted reproductive technologies itself raises questions about how and to what extent the child born in this way, as well as other individuals in society, can be informed about the characteristics of such a birth.

In accordance with Article 19 of the Law "On Protection of Reproductive Health of Citizens", information on the use of assisted reproductive technologies, as well as on the identity of participants of assisted reproductive technologies programs, constitutes a medical secret and information about them must be kept confidential.

According to part 2 of Article 19 of the Law, it is said that persons who have become aware of information constituting a medical secret while reading, performing professional, service duties and other duties are not allowed to disclose this information without the consent of the citizen or his legal representative [3].

Thus, "assisted reproductive technology" is a method of infertility treatment, and if we analyze the regulations on the

preservation of medical secrecy in cases related to the birth of a child as a result of medical treatment, all future medical When taking the Hippocratic Oath by the employees, it is said about the preservation of medical secrets: "During the treatment, as well as at other times, I will keep secret what I see and hear that are relevant to human life and should not be disclosed". it is about the prohibition of disclosure of information and information known to a medical worker to third parties in connection with the performance of his professional duties [5].

Therefore, neither in adoption nor in the use of assisted reproductive technologies, the child does not have the right to receive information about his origin. However, at the same time, Article 19, Part 3 of the Law "On Protection of Reproductive Health of Citizens" contains a list of cases in which disclosure is allowed without the consent of the citizen or his legal representative. According to it, it is allowed to provide medical secret information without the consent of the citizen or his legal representative in the following cases:

- for the purpose of examination and treatment of a citizen who is unable to express his will due to his condition;
- when there is a risk of spreading infectious diseases;
- according to the requests of inquiry, investigation and prosecution bodies, as well as the court in connection with an investigation or trial [3].

Also, according to this rule, with the written consent of the citizen or his legal representative, it is allowed to disclose information constituting a medical secret to other citizens, including officials, for the purpose of medical examination and treatment of the patient.

However, this list does not address the issue of whether or not this information can be disclosed to an adult child born with the help of "assisted reproductive technologies".

In addition, there is no provision in the legislation to keep such information confidential even after death, if such information was not allowed to be disclosed during the citizen's lifetime.

In practice, courts refuse to provide information after the patient's death, except when the deceased himself gave his consent to it during his life, to the relatives who requested to provide information constituting a medical secret. The courts point to the lack of necessary norms for this, the fact that the relatives who applied for such information are not legal representatives of the deceased, as well as the fact that this citizen did not have his consent while he was still alive.

Our legislation stipulates responsibility for the disclosure of medical secrets, which determines various types of punishment. Thus, there is disciplinary liability for disclosure of medical secrets, the nature of which is the obligation of the employer to prosecute the official, regardless of whether the victim turns to the competent authorities or to the court for protection. The mere fact of disclosing such information is sufficient to give rise to this type of liability.

The second type of liability for disclosure of a medical secret is administrative liability, which is determined in cases of disclosure of other information that may cause moral or material damage to a citizen, his rights, freedoms and legal interests.

Also, according to our current legislation, criminal liability, which is considered the most severe type of liability, is applied for the disclosure of medical secrets.

At this point, it should be noted that in the criminal law there is no separate article providing responsibility for disclosure of a medical secret, while the responsibility for "disclosing the secret of adoption" is established. Determination of liability for disclosure of a medical secret is based on Article 141¹ of the Criminal Code of the Republic of Uzbekistan "Violation of privacy" [5].

Therefore, the disclosure of inappropriate information related to the birth of a child, both in adoption and in the use of assisted reproductive technologies, can cause serious psychological damage to a child at any age and can damage his relationship with his parents, as well as lead to the breakdown of the family.

Therefore, it is necessary to improve the legislation on the use of assisted reproductive technologies, in particular, on the use of these technologies, as well as on the personal information of the participants of the programs of assisted reproductive technologies, on the preservation of medical confidentiality.

Conclusion

Thus, the legal regulation of the process of having a child through the use of assisted reproductive technologies and the confidentiality of information about its participants serves to ensure the reproductive rights of citizens, to strengthen their capabilities in the treatment of infertility, to become parents, and to achieve happiness and well-being in the family. In this way, the stability of the family, which is of great social importance in the sustainable development of our country, is ensured.

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