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POLICY FORUM
Conflicts of Interest for Physicians Treating Egg Donors
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While egg donation may seem like a feasible source of income for young, financially needy women, donor care can be ethically compromised by the conflicts of interest and incentives inherent in the current donor-egg in vitro fertilization (IVF) process These features of the donor-physician relationship mean that not all donors undergo an adequate informed consent process or consistently receive quality care or enjoy a trusting patient-physician relationship.

Structural Problems
In most cases the same physician treats both the donor and the recipient, forcing physicians to balance recipients' intense desire for a child with donor safety [1]—an inherent conflict of interest. Hence, it is unclear that egg donation is compatible with the existing paradigm of the patient-physician relationship because the donor is, in some respects, a "third party" [2]. Because ARTs are expensive, time-consuming, and emotionally taxing for intended parents [3], physicians may intentionally or inadvertently overlook the medical needs and preferences of the donor in an attempt to maximize the chances of a successful pregnancy [4]. This conflict of interest may manifest as a standoffish relationship with the donor or subpar medical care [5]. Physicians with conflicting responsibilities to recipients and donors may also withhold relevant information from the donor or encourage apprehensive donors to finish the cycle by appealing to the recipient's desire for a child [6].

The current reporting regime in the US may provide physicians with an added incentive to favor recipients over donors. Because fertility treatments can be extremely lucrative for fertility clinics, advertised rates on fertility outcomes and birth rates provide clinics with a financial incentive to maximize fertility rates [7]. Physicians are not required to report or even record the clinical activities that affect donors such as the type and amount of drugs used for stimulating egg production, the number of eggs retrieved, or complications [8]. Furthermore, because physicians are not required to follow up with donors after the eggs are removed, they have no external incentive to find out if any posttreatment complications occur nor any obligation to help the donor with known complications during or after the treatment cycle [9].

There are few laws in the US that govern the donor-physician relationship. The federal laws that concern egg donations for IVF merely require clinics to report their fertility success rates to the Centers for Disease Control [10], to register with the Food and Drug Administration, and to screen donors for communicable diseases

[11]. Although these regulations help protect recipients from communicable diseases and deceptive fertility success claims [2], they do little to protect donors [12]. There are no mandatory regulations that control the informed consent process and other aspects of the physician-donor relationship or that require clinics to record or report aspects of donor treatments performed or medical complications that result from them [2]. Arizona passed a law that unequivocally states that a patient-physician relationship exists between the donor and the physician [13]. It might be beneficial for other states to follow suit.

The lack of any formal regulatory structure at the federal level and patchwork of state laws regarding egg donation for IVF illuminates the reality that there are greater legal protections for embryos and unborn children in the United States than there are for vulnerable egg donors during the ART process [2].

Problems in the Donor-Physician Relationship

Informed consent in egg donation often falls short of best ethical practices for disclosure [14]. Though nearly two-thirds of egg donors reported being satisfied with the information they received during the donation process, more than 36 percent of donors would have liked more information about the risks of donation [15]. Additional studies of past donors are cause for concern. One follow up study of former egg donors found that 20 percent were not aware of any medical risks at the time of their donation [13]. Two-thirds were unaware of the risk of ovarian hyperstimulation (while 12.5 percent experienced it) [13]; less than 10 percent were aware that the procedure could cause pain and cramping (while 45 percent experienced those sensations [13]; and no respondents reporting being aware of the possibility of ovarian cysts (whereas 2.5 percent of them experienced them) [13]. As a whole, current disclosure practices are inadequate, most likely because clinics are free to devise the particularities of their own informed consent processes [12].

Some donors report that physicians and clinic staff treated them like second-class patients and that their care was cold, discontinuous, and abruptly terminated after egg retrieval [5]. One young donor describes how the high stakes of ARTs enticed her physician to prioritize the recipient's desire for a child above her safety: "Once the eggs were fertilized and transferred, I met my intended mother. This woman told me that I had a right to know that I was going through premature ovarian failure…. All of my eggs ended up dying so she wasn't able to get pregnant…. When I asked why I hadn't heard this from the doctors, she said they wanted to wait until the end because 'they didn't want to have any negative energy' during the cycle. It blew my mind" [16].

Previously Proposed Interventions

Legislative interventions. Only a few states have taken steps to safeguard egg donors [17], even though states are best suited to regulate and enforce these types of laws because of their control over the licensure and certification of physicians and facilities. California requires clinics that recruit donors via ads that offer compensation to either certify that they have complied with ASRM requirements or

to include a notice explaining that donation involves certain screening and medical procedures that carry some risks [18]. California also requires that clinics provide a more detailed explanation of the procedure and risks before creating a contract or beginning treatment [18]. New York has specific requirements regarding what must be covered under informed consent [19], and Arizona requires disclosures regarding the procedure and risks involved [20].

Whether or not these laws adequately protect donors from the dangers of egg procurement, it is promising that some states have taken measures to protect this vulnerable and unprotected population of patients. Other states that allow egg donation should enact some type of legislation to protect donors. Although varying laws between states may create the potential for interstate reproductive tourism, the "laboratory of the states" can experiment with legislation to determine what regulations are optimal.

Professional interventions. Professional organizations like the American Society for Reproductive Medicine (ASRM) issue guidelines for fertility clinics and physicians [12]. As concern about the lack of informed consent in egg donation mounts, ASRM and others have taken notice. In January 2014, ASRM released new guidelines for donor informed consent, suggesting that the informed consent process should begin earlier in the donation process and include "explanatory figures and diagrams detailing the medical procedure; descriptions of and statistics for multiple risks; opportunities to grant or withhold consent to use of donated tissues in subsequent research, and information about compensation" [21]. However, these guidelines are merely "strong recommendations" because the ASRM has no enforcement authority beyond excluding noncompliant physicians and facilities from membership [22].

Mechanical improvements to informed consent. Researchers Amanda Skillern, Marcelle Cedars , and Heather Huddleston are touting their Egg Donor Informed Consent Tool (EDICT) as the solution to the current inadequate practices [23]. The EDICT measures donors' own subjective assessment of their understanding of the donation process and their objective comprehension of the risks [23]. A recent study reported that donors who received an hour long audiovisual presentation on donation drastically improved on both the subjective and objective measurements of informed consent [23]. Researchers believe this "provides evidence for the first time that prospective oocyte donors are capable of giving true informed consent, which requires capacity and the ability to understand disclosed information and its reasonably foreseeable consequences" [23].

The EDICT's efficacy or utility in evaluating informed consent processes notwithstanding, attaining truly informed consent requires something beyond a mere clinical presentation of facts, risks, and benefits; disclosure is a trust-building exercise between physician and patient [24]. The donor-physician relationship cannot foster true informed consent when physicians must juggle competing responsibilities and conflicts of interests. Whether this pressure is intentional or

inadvertent, donors are more likely to face manipulation when physicians treat both donor and intended parents [25].

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