Elton Humphery,
Secretary,
Community Affairs Committee,
Parliament House,
Canberra,
ACT 2600

3rd October 2006

Submission – Legislative responses to recommendations of the Lockhart Review 2006

This submission is made on behalf of the Fertility Society of Australia.

Thank-you for the opportunity to comment on the legislative responses to recommendations of the reports of the Legislative Review Committee on the *Prohibition of Human Cloning Act 2002* and the *Research Involving Human Embryos Act 2002* (Lockhart Review).

The FSA is pleased with the suggestions made in the Lockhart Review and supports the government's aims to ensure the integrity of reproductive research undertaken in Australia.

The following comments relate specifically to sections of the document. Comments have been limited to changes suggested by Senator Patterson.

Senator Patterson Bill:

Schedule 1:
The inclusion of the revised definition of an embryo is useful in acknowledging that fertilisation is a dynamic process and cannot be defined until a physiological marker is observed. The inclusion of section 8(3) is essential to allow consideration of embryos frozen and stored over long periods of time for use in potential pregnancy by the couple storing.

Clause 20: Changes to the legislation, which would remove the need for permission from Customs to import or export embryos for the purposes of that person's ongoing ART, are seen as the removal of a major inconvenience and unnecessary restriction for people seeking further treatment in other countries.

Clause 21: The FSA would support the continued restrictions on commercial trading in human gametes or embryos but supports the Lockhart recommendation 33 of reimbursement of reasonable expenses. It is felt that consideration should also be given to reasonable expenses incurred by a donor in transport costs to and from the facility, any relevant medical expenses and loss of income incurred as a result of time away from routine work.

Schedule 2:

Item 4 (Subsection 7 (1))

The inclusion of a definition of "unsuitable for implantation" as determined by *the Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and research (2004*) will aid to some degree in determining embryo suitability following PGD but will not address emerging technology in relation to disease diagnosis for late onset diseases and cancers. What defines a condition that does not seriously harm a person? The determination of objective criteria for "unsuitable for implantation" could have significance upon ART. The concern being that anything deemed not "unsuitable for implantation" by the objective criteria is suitable for implantation. What implications will this have to the person undertaking treatment? The proposed bill states the CEO of the NHMRC will determine these criteria. The development of such criteria will require much deliberation and the FSA would value the opportunity to contribute.

Item 7 (Heading to Part 2)

This has now been expanded to include human eggs and appears to be a major extension on the current Act. Section 8 further extends the definition of "proper consent" to include human eggs. The continued inclusion of "human egg" creates a similar status to embryos. The proposed change to the bill implies that a licence is required before use of oocytes. Would this extend to oocyte donation to other women if oocytes were declared excess? Although recognised that the inclusion of research up to, but not including first mitotic division, outside the body may be undertaken with a licence, the inclusion of human eggs in the legislation may create unanticipated problems. Will the law view excess human eggs in the same light as excess human embryos? Auditing of human eggs by the NHMRC Licensing Committee would require exact numbers of all oocytes collected and utilised. Section 29 will now include collection of data on human eggs and their use. Serious consideration should be given to the consequences and costs of this addition.

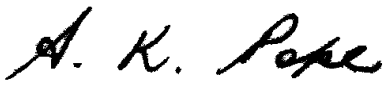
Item 24:

The possibility of decreasing the cooling off period for consenting in section 24 is seen as a step forward in addressing issues relating to the donation of embryos deemed as "unsuitable for implantation"

It is noted in recommendations 31, 32 & 33 of the Lockhart Review, relating to gamete and embryo donation, that the NHMRC develop guidelines for egg donation. This may be a more practical approach to the management of eggs donated for research than including human oocytes in the legislation. The FSA would encourage consideration of this option.

The Fertility Society of Australia appreciates the opportunity to be involved in commenting on reviews of documentation relating to Assisted Reproductive Technology.

On behalf of the Fertility Society of Australia,



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