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Bioethics and Law Forum

The Questionable Future of Unregulated Reproductive Medicine[1]

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The American Society for Reproductive Medicine recently issued a ruling that recommends restricting use of a technique that can test the gender of embryos and therefore select the gender of future children.

The ruling is a revision of an earlier position suggesting that using gender genetic testing on embryos would be acceptable. That position raised serious ethical concerns, however, both because it seemed to endorse the practice of choosing embryos for no other reason than their gender and because it would entail first making embryos and then choosing some but discarding others—again, solely on the basis of their gender. The new ruling states that ''the need for gender variety in a family does not at this time justify the use'' of genetic testing of embryos.

Will this ruling prevent people from seeking to implant only male or female embryos? Should there be rules about how far reproductive technologies should be allowed to go, and if so, who should make and enforce them?

Is Self-Regulation Enough?

The world of reproductive medicine is almost totally self-regulated. There are almost no federal rules about what can and can't be done in making and testing embryos for reproductive purposes. Reproductive technologies are constrained only by scientific limits and what patients are willing to pay for. As repeated news about new technology indicates, physicians and patients are willing to push the envelope.

So are voluntary restrictions enough? While it would be nice to hope so, given the market-driven nature of reproductive medicine, it will only take a single clinic offering an unproven or ethically questionable technology for other clinics to follow suit as a matter of economic competition.

Why Congress Cares

The problem is that if the profession won't regulate itself sufficiently, there are plenty of others ready to step in and regulate it for them, including federal and state governments. The main impetus isn't the prospect of gender selection, although that will add fuel to the fire, but the controversy surrounding embryonic stem cell research. The connection is that embryos for stem cell research primarily come from reproductive medicine clinics. So the controversy over government funding of embryonic stem cell research quickly reaches into the domain of reproductive medicine.

The government is now reviewing the authority of the Food and Drug Administration (FDA) to oversee and control reproductive medicine. If the FDA doesn't have authority, Congress can intervene and pass legislation controlling reproductive technologies. This happened last summer when the House of Representatives passed legislation that bans all applications of human cloning—both research and reproductive—with stiff penalties for violators. The Senate has yet to act, but passing a bill similar to the House bill would be an ill-advised rush to policy making.

The Road Ahead

There is no doubt that rules for reproductive medicine are a must, with the only serious questions being what they should look like and where they should come from. Until then, the key will be self-control by medical professionals in order to buy enough time for well-reasoned policies. Unfettered technology will force the hand of lawmakers, making the choice between a brave new world and overbroad government regulation. Neither is a good option for today's patients or tomorrow's children.

[1] A version of this article appeared in Dr Kahn's column ''Ethics Matters'' on CNN.com/health.

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