S T A T E O F N E W Y O R K

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I N A S S E M B L Y

February 29, 2012

Introduced by M. of A. FITZPATRICK, CURRAN, FINCH, TENNEY -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to making it unlawful to provide consideration for the donation of human eggs for scientific research

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The public health law is amended by adding a new section 4311 to read as follows:

S 4311. PROHIBITION OF VALUABLE CONSIDERATION FOR THE DONATION OF HUMAN EGGS FOR SCIENTIFIC RESEARCH. 1. IT SHALL BE UNLAWFUL FOR ANY PERSON TO KNOWINGLY PROVIDE OR OFFER TO PROVIDE VALUABLE CONSIDERATION TO ANY WOMAN WHO DONATES A HUMAN EGG FOR SCIENTIFIC RESEARCH. IT SHALL FURTHER BE UNLAWFUL FOR ANY ADVERTISING OR PUBLICITY AIMED AT RECRUITING DONORS OF HUMAN EGGS OR ENCOURAGING DONATION OF HUMAN EGGS TO INCLUDE ANY REFERENCE, EXPRESS OR IMPLIED, TO THE POSSIBILITY OF VALUABLE CONSIDERATION FOR SUCH A DONATION, ALTHOUGH REFERENCE MAY BE MADE TO THE AVAILABILITY OF REIMBURSEMENT FOR ACTUAL EXPENSES, AS PERMITTED BY THIS SECTION.

(A) THE TERM "VALUABLE CONSIDERATION" SHALL NOT INCLUDE THE REIMBURSEMENT OF ACTUAL EXPENSES INCURRED BY THE WOMAN HERSELF IN CONNECTION WITH THE DONATION OF AN EGG.

(B) THE TERM "ACTUAL EXPENSES" SHALL BE DEFINED AS NECESSARY EXPENDITURES PAID OR INCURRED BY THE WOMAN HERSELF, INCLUDING TRAVEL, HOUSING, AND LOST WAGES, BUT SHALL NOT INCLUDE ANY INDEFINITE OR INCHOATE EXPENSES, SUCH AS INCONVENIENCES OR BURDENS. REIMBURSEMENT MAY BE PROVIDED FOR ACTUAL AND REASONABLE MEDICAL EXPENSES INCURRED BY AN EGG DONOR WHO BECOMES ILL AS A DIRECT RESULT OF THE DONATION.

2. ANY PERSON THAT ACCEPTS THE DONATION OF HUMAN EGGS SHALL MAINTAIN A RECORD OF ALL EXPENSES REIMBURSED TO DONORS, CONTAINING INFORMATION ABOUT THE DATE, AMOUNT, RECIPIENT, SPECIFIC JUSTIFICATION AND DOCUMENTATION SUPPORTING EACH REIMBURSEMENT.

3. ANY PERSON THAT ACCEPTS THE DONATION OF HUMAN EGGS SHALL OBTAIN FROM THE DONOR A CERTIFICATION THAT NO VALUABLE CONSIDERATION WAS PAID

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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TO HER BY ANY PERSON FOR HER DONATION OF AN EGG, EXCEPT FOR THE REIMBURSEMENT OF ACTUAL EXPENSES AS PERMITTED BY THIS SECTION. SUCH CERTIFICATIONS SHALL BE REQUIRED TO BE MAINTAINED BY THE PERSON OR ENTITY IN THEIR RECORDS.

4. THIS SECTION SHALL NOT APPLY TO THE PROCUREMENT OF HUMAN EGGS FOR THE TREATMENT OF INFERTILITY.

5. ANY PERSON WHO VIOLATES THIS SECTION SHALL BE GUILTY OF A CLASS E FELONY.

S 2. This act shall take effect immediately.