

Dissolution of SACRT & the Code of Ethical Clinical Practice

A.R.T. PRIOR OVERSIGHT & CODE OF ETHICAL CLINICAL PRACTICE

A.R.T. in South Australia: Oversight and Ethics

In South Australia, the *Assisted Reproductive Treatment Act 1988*, and *Assisted Reproductive Treatment Regulations 2010* provide for the regulation and oversight of assisted reproduction by the Minister for Health. The current Act and regulations came into effect in 2010, changing prior oversight and advice mechanisms that existed via the South Australian Council on Reproductive Technology (SACRT), and repealing the Code of Ethical Clinical Practice that existed. These changes form part of the review and are addressed in this Fact Sheet.

Fact Sheet 3 details the current registration requirements, and makes reference to the Reproductive Technology Accreditation Committee (RTAC) accreditation scheme and National Health and Medical Research Council *Ethical Guidelines on the Use of Assisted Reproductive Technology in Clinical Practice and Research* (NHMRC Guidelines). This Fact Sheet provides brief information on the previous membership and functions of the SACRT, and the Code of Ethical Clinical Practice it promulgated. It notes briefly what now exists, and highlights issues of relevance to the review of the Act.

SACRT

SACRT was established under the former *Reproductive Technology (Clinical Practices) Act 1988 (SA)*. It consisted of eleven members appointed by the Governor of South Australia who were representative of a variety of views and experiences across the South Australian community. Of the eleven members five were nominated by the Minister, and one each was nominated by:

- (a) the Council of the University of Adelaide;
- (b) the Council of the Flinders University of South Australia;
- (c) the Royal Australian College of Obstetricians and Gynaecologists;
- (d) the Royal Australian College of General Practitioners;
- (e) the Heads of Churches in South Australia; and
- (f) the Law Society of South Australia.

The appointed members tended to have expertise in paediatric health, medical law, ethics and consumer and children's rights.

SACRT was tasked with:

- > formulating and keeping under review a Code of Ethical Clinical Practice to govern artificial fertilisation procedures;
- > advising the Minister for Health on the medical, social, scientific, ethical, legal, and moral issues arising from assisted reproductive technologies and treatment;

-
- > providing advice to the Minister on conditions, licenses, and issues relating to reproductive technology;
 - > promoting research and understanding of the causes of human infertility and ethical and social issues arising from reproductive technology;
 - > consulting with other bodies carrying out similar functions in Australia; and
 - > providing annual reports to the Minister for Health.

The Code of Ethical Clinical Practice

SACRT formulated a Code of Ethical Clinical Practice to govern the use of artificial fertilisation procedures in South Australia. The Code was set out as a schedule to the *Reproductive Technology (Code of Ethical Clinical Practice) Regulations 1995*. It was repealed in 2010 and replaced with the *Assisted Reproductive Treatment Regulations 2010*. The previous Code included comprehensive coverage of issues including such things as:

- > Prohibited practices (for example, regarding various uses of embryos, donor gametes, and/or the gametes of a close relative);
- > Eligibility for infertility treatment and gamete donation;
- > Consent to:
 - infertility treatment;
 - collection of donor ova;
 - storage and use of reproductive materials;
- > Consent to disclosure of confidential information;
- > Provisions regarding the form of consent;
- > Provisions regarding disposal of stored gametes and/or embryos;
- > Record keeping relating to recipients of assisted reproductive treatment; donors of reproductive material; clinical standards and procedures;
- > Criteria for use of certain embryos in reproductive treatments;
- > Assigning a medical practitioner to infertility treatment;
- > Selection of donor gametes in certain cases;
- > Informing child or parents of any hereditary diseases of the donor(s);
- > Informing the donor of any identified hereditary illness of any biological child of the donor;
- > Notifying any birth defect to the Pregnancy Outcome Unit of the then Department of Human Services.

Providers of assisted reproductive treatment were also required under the Code to provide an annual report to the SACRT; and to provide notification of accreditation by the Reproductive Technology Accreditation Committee (RTAC) of the Fertility Society of Australia.

What replaced SACRT and the Code of ethical clinical practice?

- > An Ethics Health Advisory Council (EHAC) may provide advice to the Minister on health related ethical issues, including A.R.T. Its rules were Gazetted in January 2010, but it is not referred to in the legislation or regulations.
- > The self-regulatory RTAC accreditation scheme;
- > Adherence to the National Health and Medical Research Council (NHMRC) Guidelines.

Please refer to other Fact Sheets in this series for more information.

Considerations

- > SACRT served as an 'arms-length' oversight and advisory body that was able to respond to ethical issues and changes in technology rapidly via the Code of Ethical Clinical Practice. The body no longer exists, and there is no equivalent in South Australia. Reporting requirements that previously existed under SACRT's remit are not currently met by any other method or body.
- > The Code of Ethical Clinical Practice, which carried detailed requirements for the practice of A.R.T., including extensive information and record keeping provisions, was also repealed.
- > There is now primary reliance upon the NHMRC Guidelines and the RTAC accreditation scheme. The RTAC accreditation scheme is a self-regulatory scheme administered by the Fertility Society of Australia. The changes to the Act were made on the assumption that they would reduce redundancy, and conflicts and uncertainty that were seen to exist due to both State based and national ethical guidance existing.
- > Proposed changes to the NHMRC Guidelines published in late 2015 have highlighted the possibility of inconsistencies with South Australian laws, ethics, and practice. While the NHMRC Guidelines do not apply in South Australia to the extent that they are inconsistent with the *Assisted Reproductive Treatment Act 1988*, there is nothing in the legislation or regulations to determine what to do in the case that such inconsistencies exist (or are introduced).

Questions

We are interested in hearing from people about their experience and views of the dissolution of SACRT and its Code of Ethical Clinical Practice. The following questions may help you to inform the review:

1. Are you satisfied with the dissolution of SACRT? Why?
2. Are you satisfied that the South Australian Code of Ethical Clinical Practice no longer exists? Why?
3. What is your experience with, and/or views of, the Ethics Health Advisory Council?
4. From whom do you seek guidance if you are unsure of what is lawful and/or ethical in South Australia concerning assisted reproductive treatment?
5. Is reference to the NHMRC Guidelines and RTAC accreditation scheme satisfactory? Why?
6. What is your view concerning the changes to the regulation and oversight of A.R.T. in South Australia? Do you think they (1) went too far; (2) got it just right; (3) should never have occurred? Please explain.

Please feel free to comment on anything else that is relevant.

The Review of the Act

The *Assisted Reproductive Treatment Act 1988* provides that a review must take place of the operation and effectiveness of the Act as soon as possible after the fifth anniversary of the changes that came into effect on or after 1st September 2010. The review will particularly focus upon the operation and effectiveness of the Act in relation to:

- > the requirement that the welfare of any child born as a consequence of A.R.T. is to be treated as being of paramount importance, and accepted as a fundamental principle, in respect of the operation of the Act, as well as in the provision of assisted reproductive treatment;
- > the replacement of the previous licensing scheme with a registration scheme for A.R.T. clinics;
- > the dissolution of the SA Council on Reproductive Technology and its Code of Ethical Clinical Practice;
- > amending eligibility for access to A.R.T. services—noting that such conditions relate to the circumstances in which, and to whom, A.R.T. may be provided;
- > allowing for the establishment of a donor conception register; and
- > provisions for record keeping and confidentiality.

The review will include examination of research and practice, and invite public submissions relevant to the above matters. It will lead to a report, which will include recommendations regarding the regulation of assisted reproductive treatment in South Australia. The report will be tabled in Parliament and made publically available.

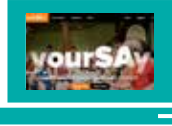
The recommendations will be considered by the Minister for Health.



Dissolution of SACRT & the Code of Ethical Clinical Practice Fact Sheet 4

Review of the
*Assisted Reproductive
Treatment Act
1988 (SA)*

We Invite You To Make a Submission



Complete the online submission form on the [YourSAy](#) website to provide your views in relation to the issues under review.

Email a submission to Associate Professor Sonia Allan at HealthPolicyLegislation@sa.gov.au with subject heading 'A.R.T. Act Review'



Post a submission to

A/Professor Sonia Allan
A.R.T. Act Review,
C/- Policy and Intergovernment Relations Unit,
SA Health, PO Box 287, Rundle Mall,
ADELAIDE SA 5000



Join the discussion on the [YourSAy](#) website.

Please note that all submissions are public unless marked 'confidential'. Public submissions will be posted on the [YourSAy](#) website, and the author may be cited in the final report. Authors of 'confidential' submissions will not be referred to by name. We cannot accept anonymous submissions.

Submissions close on Friday 15 April 2016.

More Information

For general information on topics relevant to the review of the *Assisted Reproductive Treatment Act 1988 (SA)* see the following Fact Sheets:

[Fact Sheet 1: Introduction to the Review](#)

[Fact Sheet 2: Paramourncy of the Welfare of the Child](#)

[Fact Sheet 3: Registration Scheme for A.R.T. Clinics](#)

[Fact Sheet 4: Dissolution of SA Council on Reproductive Technology, and its Code of Ethical Clinical Practice](#)

[Fact Sheet 5: Access to Assisted Reproductive Treatment](#)

[Fact Sheet 6: Establishment of a Donor Register](#)

[Fact Sheet 7: Record Keeping and Confidentiality](#)

Disclaimer

Fact sheets are for information purposes only. They are prepared to aid general understanding, and do not constitute legal advice. While every effort is made to provide accurate, current and complete information, no claim is made that the information is in fact accurate, current or complete. By using the information in this Fact Sheet, you acknowledge that SA Health, the Minister, employees of the Department, delegates or consultants working upon the review, do not accept liability however arising, for any consequences of anything done or not done by a person in relation to the usage of and/or reliance upon (whether in whole or in part) the information provided in this Fact Sheet

Prepared by Associate Professor Sonia Allan, for the *Assisted Reproductive Treatment Act 1988 (SA)* review, January 2016.

Public- I2-A1



www.ausgoal.gov.au/creative-commons

