

SURROGACY.

ANOTHER PATH TO BUILDING FAMILIES.



Keep reading to hear from our experts.

Gestational surrogacy. It may be the most generous action a woman can take to enable the creation of a family.

But the decision to enter into an agreement to carry someone else's child must be made with care. There are psychological, medical and legal implications to be weighed. And you are best served if you enlist an advocate to help look out for your interests.

Alternative Reproductive Resources hosted a teleseminar in July of 2008 to acquaint would-be surrogates and other interested parties with the ins and outs of the process. We're pleased to recap the discussion here.

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The Emotional Considerations for Surrogates

Jan Elman Stout, Psy.D.



Jan is a clinical psychologist who consults with

ARR's surrogacy and egg donor candidates as well as intended parents.

I recently spoke with a surrogate who is in her second arrangement after successfully delivering several years ago, helping make a couple as happy as anyone in the world could be. She mentioned to me that before she completed her first experience as a gestational carrier, she knew that this would be a wonderful event, a wonderful time in her life, and a life-altering experience. She said that afterwards, she had no idea that it would be or could be as wonderful as it actually was. And that's why she decided to do it again.

Despite the fact that this can be a wonderful experience, there are potential stresses involved and realities to be aware of before deciding to move forward in the process.

This is not a process suited to everyone. It takes a very special, giving woman to be able to be a surrogate, helping new life come into the world. It is a wonderfully generous act, and those who move forward get reminders of that throughout the process.

It actually can be a project that takes up to two years of your life. Obviously, in a full-term delivery, there are nine months from start to finish. But there can be three months give or take before you actually do conceive a pregnancy, so I look at it as a year from once you're actively involved. And then it can take some time to get matched and to also go through the various consultations and screenings required before you can actually get started.

Through it, you very quickly get involved in a very intimate and personal way with a couple that starts out as strangers. I tell everyone

that this is like an arranged marriage in that way. You very quickly start doing and talking about very personal and intimate and private matters with people who at the outset are strangers. As a result, there's a good chance that at the very beginning you won't have quite the level of trust in them—and certainly not

the level of friendship with them—that you have a good chance of developing along the way. That makes it a unique experience.

Another thing that makes it unique is that as a surrogate you will be carrying in your body the baby or babies of another couple. You will have, all of you, a lot of overlapping needs, interests (and different ones, as well), and some of those have to be negotiated along the way.

You'll be going through a lot of medical appointments and medical procedures at the outset. You'll be getting a lot of shots. You'll be getting ultrasounds and blood tests. You'll go through an embryo transfer

and then you will wait a few weeks to find out whether or not you're pregnant, and, if so, the rest may be very much like what you've experienced already, although no two pregnancy situations are ever identical.

One of the potential stresses in the medical appointment process is that the schedules can be demanding. It's a short period of time in your life and the short period of time in the project all together, but within a few weeks' time you'll be having a fair number of medical appointments. And the schedule for that can sometimes be inflexible. Oftentimes, the medical program tells you when to be there and doesn't ask whether or not it's convenient.

No guarantees

There's also some unpredictability. You do not have a guarantee of success here. You've got a good shot at it but in the best medical programs, the chances of pregnancy in a single cycle still is about 50 to 70 percent, and there's always a chance the pregnancy will not develop past the point of the first pregnancy test or that you'll actually undergo a miscarriage. So you must be prepared that things may not go well, and certainly not necessarily the first time around.

Nor is there a guarantee of pregnancy in a single cycle. You do have a chance of carrying a multiple pregnancy for others. It's common in these medical programs that they will want to transfer two embryos or possibly three embryos to you, and that means that you've got the possibility of a multiple pregnancy. That, too, can be a wonderful experience, although the more babies that [a surrogate] tries to carry, the higher the risk for the carrier as well as the babies. Because of the possibility of multiples, you need to consider whether or not you're willing to undergo a procedure called a fetal reduction, where part of the pregnancy is terminated. This issue has no absolute right or wrong answers. But you must be well-



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The Emotional Considerations (con't)

matched with the intended parents in terms of your views on fetal reduction if you did get pregnant with triplets or more.

Similarly, you need to know whether or not you're willing to terminate a pregnancy for a fetal anomaly and under what kind of circumstances, because again, your views and the set of parents' views have to match up on all of this.

Other issues to be aware of? You may be matched with an infertile couple who has probably, by virtue of getting to this point in their journey, experienced grief, loss, and a sense of loss of control over being able to have a family. They may have difficulty trusting you, requiring resiliency in dealing with what may come your way on that front. Alternatively, you may be matched with a gay couple who has no idea what's involved in

getting pregnant and staying pregnant. You may be in a position of needing to educate them about how all of that works.

You can make a determination about whether you're comfortable with a gay couple or prefer to work with an infertile couple. You also need to know your limits in other match considerations. Are you okay working with people of another race or another ethnic background? Of another religious background?

There are no absolute right or wrong answers besides knowing yourself and what suits you best.

Optimal candidates

Who would be optimal candidates as carriers? Sensitive, thoughtful and giving women who are nonetheless comfortably advocating for themselves; are able to trust others, are strong, resilient, self-confident and secure; like being pregnant and had a good pregnancy history; have a good support network and a stable lifestyle; have realistic expectations and obtainable goals; are financially stable; are able to understand the risks, the medical process and the medical protocol.

Optimal candidates are also women who have no significant psychological or emotional problems, who have a history of making good decisions for themselves and lead a healthy lifestyle, do not drink alcohol or take drugs, eat healthily, lower their caffeine intake during pregnancy, etc.

You need to be able to express your questions and concerns and also it's really helpful if you can tolerate ambiguity and unclear situations because you can encounter these in the process.

There are privacy and confidentiality issues in all of this. You're not going to be allowed to autonomously control your pregnancy because other people are involved in this with you who will be looking for some information in the process. ■

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Legal Aspects a Definite Part of Surrogacy Process

Today, I'd like to discuss the general legal issues to consider when entering into any gestational carrier or surrogacy arrangement as well as some informed consumer-type issues you need to consider.

First, however, I'd like to clarify terms. You may hear me use the terms gestational surrogate and gestational carrier interchangeably because Illinois law refers to gestational carriers as gestational surrogates. They mean the same thing.

Entering into a surrogacy arrangement is a potentially exciting and terrifying experience, regardless of whether you're an intended parent or a gestational surrogate. But all parties have the same goals: They want to have a happy, secure relationship with the party with whom they're working. They want to ensure there's mutual trust and that any child born of this arrangement is going to be the legal child of the intended parent.

State laws

Some of our states have laws about gestational births, and some do not. Many arrangements span two states, and your legal agreement may be governed by one state while your parentage determination is governed by another. Therefore, you must take what I say with a grain of salt. Some of my general principles may be relevant in each case, while you'll have to consult with an attorney who specializes in this area of law in your state to

determine what laws will govern and how your specific arrangement will work.

When it comes to the laws around surrogacy, here are some principles that hold true in most states. First, a woman who gives birth to a child is presumed to be its mother. Second, the man to whom she's married is presumed to be the father. So the question becomes how to transfer legal rights and responsibilities from any given

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gestational surrogate to any given intended parent. In some states without legislation, the answer is a court order. Here, attorneys can go into court and prebirth a tenant order stating that the intended mother and the intended

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Joseph & Horwich, a Chicago firm that specializes in adoption and reproductive technology law. She helped author Illinois' progressive surrogacy law.



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Legalities (con’t)

father are the parents of the child and the surrogate and her husband are not the parents of the child.

Some states will allow for a situation with an egg donor and an intended father’s sperm to enter into a birth certificate without an adoption; in others, a birth order is submitted in cases where intended parents are both biologically related to the child.

I am licensed in Illinois, and therefore it’s the state I will use as an example. Here, we do have a gestational surrogacy statute, serving several purposes. The first is that if you’ve complied with the statute, the agreement will be legally enforceable. The second is that if you comply with the statute regardless of whether you use a donor, intended parents will be considered the legal parents upon the child’s birth. The gestational surrogate and her husband will not.

Contract importance

Sometimes, the trickier issue involves the contract itself and whether a court will enforce its provisions. This is probably the most important agreement that you’ll ever enter into, and in many ways, it’s different than any agreement that you’ve ever entered into. Many people I’ll work with have a point of reference of the house that they bought or the business deal that they entered into. There’s an entire element here that is different than any arrangement you’ve ever entered into.

And that is that you are dealing with real people on both sides who bring their personalities to the picture. And the issues that arise during the course of the surrogacy result from differing expectations and goals, and differing ways of handling stress.

So I’ve seen parents come in and ask me



to write into the contract that the surrogate will not eat Doritos or that she comply with their requirement that she eats organic food... but they only want to pay for her organic food, not her entire family’s. You have to tell them that this is not fair, just as the flip side is true, for a surrogate to say, “Well I really don’t want the parents to be at the appointments. I really want them to be very hands off.”

Unless it’s a very specific match and that’s what the intended parents are expecting too, such arrangements will lead to conflict. Within the legal agreement, we try to frame some of those issues and how to deal with them if they arise. Typically, an arrangement covers everything from what happens if the surrogate is placed on bed rest to how much and how often payment occurs to how many embryos get transferred to what happens if the baby’s born via C-section if hospital policy allows only one party to be present.

Compensation

On compensation, I see a general range of compensation from about \$20,000 to \$27,000 for the first-time surrogate. The underlying legal principle to remember is that a surrogate is being paid for her time, effort and inconvenience—and not for delivering a live child. (Every state in this country, rightly so, has laws that prohibit paying for a child, stemming mostly from our adoption laws.) Generally, that means the first significant payment is at confirmation of pregnancy, whether by fetal heartbeat or some other method. And then it’s

Legalities (con’t)

spread out every four weeks over the course of the pregnancy until the baby is born.

Attorneys also think about issues such as what if the surrogate is put on bed rest, what types of insurance she has, whether her medical insurance will cover this process, and, if not, the various options for the intended parents. Other issues are what if something happens to the intended parents throughout the course of the pregnancy—how is it ensure that the surrogate and her husband will not be left with the responsibility of raising that child when that was never their intent?

My job, unfortunately, is often to be the wet blanket, but working these things out at the beginning goes a long way toward ensuring a successful arrangement.

It’s also important to know about some of the informed-consumer issues. One involves your choice of agency, which will bring you and the intended parents together. You need to look at several factors. These include how reputable they are, how they’re structured and whether that structure makes sense to you, and also their references. You should call those references to

ensure what they’re telling you is consistent with the experience of their clients.

Also think about how your personality matches with the agency’s. I know of several reputable agencies, all of which have different personalities. This is definitely not a one-size-fits-all situation.

Internet matches

Finally, I’d like to briefly touch on Internet matches. Increasingly, the Internet is a forum through which a lot of information is being communicated. I often meet with clients who will tell me they met the perfect surrogate—in a chat room, or through e-mailing. Some of these relationships may work out, but not in my experience.

Once you move past the point of getting friendly to enter into contract negotiations, it turns out that there are issues nobody considered. So although it is possible to do a successful Internet match, first try to separate your personal relationship from that of trying to get the arrangement lined up until you’re past the point of having the psychological consultation or legal representation, and the contract is in place. And at that point, of course, a lot of the issues that will come up throughout the course of the gestational surrogacy have been addressed. ■

A Personal Journey Includes a Well-placed Safety Net

Elaine Brown



Elaine is a surrogate from Colorado who at the time

of this conference was in her second surrogate pregnancy after having delivered a baby boy for a Chicago couple in 2006.

I started my journey as a surrogate when I was working as a nurse in a fertility clinic. I could really see the struggle of women who discovered that they were not able to carry their own children, and my heart broke for them because I knew how precious my own daughter was to me.

For myself, I knew I did not want to have any more kids but I enjoyed pregnancy and would be very comfortable being pregnant again.

So I talked to our psychiatrist at the clinic where I worked, and she recommended an agency in Chicago that I ended up working with. We initially went through all the background testing, then I went through the medical workup and then the psych workup. Once everything was completed, I was matched with a couple that lived in Chicago. It took about two weeks, and I was amazed at how quickly it happened.

I worked with an agency rather than doing this independently because first, I did want to be matched quickly. But I also wanted that support and the safety net of having an agency that would advocate for me should I need it at any point during the journey.

We met. We did our initial match-meeting, and transferred two embryos in June. We were very lucky to get pregnant on the first time and also very lucky that it was just one.

And it was a pretty uneventful pregnancy. We would keep in touch; the parents would fly to Denver for ultrasounds and some appointments,

and I visited Chicago a few times. And we talked about once every week or every couple of weeks, depending on the stages of the pregnancy and what was going on at the time.

New relationships

When you do a surrogacy, you develop such an intimate relationship with these people with whom you have absolutely no background whatsoever. I remember talking to the dad and joking with him that at the 16-week appointment it would be the first time I actually got to see him without my pants being off! So it does really throw you into a different relationship with these people.

We went to the 12-week appointment and did the Nuchal screening, which is one of

the big tests that they do now to make sure everything's good with the baby. I remember the dad pointing to the spotlight that was on the side of the room and saying, 'Oh my God. Is that what they use for the vaginal ultrasound?' And we all laughed because that obviously wasn't the right thing.

But you have to kind of go into it with a sense of humor and understanding that you're sharing very personal parts of yourself with this couple.

I did end up having a boy, as mentioned, in February of 2006. Though I went into the initial surrogacy saying I was only going to do this once, a month later I really felt like I wanted to do it again.

The second time around

So I called my agency again, and spoke with my absolutely wonderful coordinator and kind of went through the things that were satisfying in the journey and the things that I wanted to get out of the second one. And she was so understanding and knew that I would only do it for a very, very special couple.

It didn't take long, actually, to find my second couple. Like I said, the first journey was very satisfying but this time I needed more. I needed the warm fuzzies. I needed to feel a long connection with this couple and they, amazingly enough, lived about seven miles from me, which is here in Denver. And they had called Chicago looking for their surrogate and when they spoke to my coordinator, she knew these people were it. This is the couple that Elaine needs to be with.

This journey itself has been a little bit more difficult. It's taken three transfers to get pregnant but we are now almost 22 weeks pregnant with twins; It's a boy and a girl. And this journey has really been different from the last but I still have that feeling that I'm doing the right thing, that I'm giving this couple something that is just incredibly precious they've wanted their whole lives.

I jokingly tell this couple that I do plan to get a tummy tuck when this is over since there is two in there, but it's really turning out to be everything that I expected it would be. ■



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Playing the Advocate Role Among Many for Agencies

Mary Ellen McLaughlin, BSN



Mary Ellen is a partner with ARR who works closely with its surrogates and egg donors.

Here's an example of what an agency does as your advocate. Last night I was at the airport at about 10:30 picking up a gestational surrogate. I drove her into the city, drove her past the doctor's office where she would have her appointment this morning, and then over to her hotel, which I had reserved and paid for. All to get her set up for her appointment this morning.

It's the kind of thing a good agency does for its surrogates, and what I've been doing for probably over seven years of our surrogacy program that's helped bring over 40 babies into the world.

The agency plays many overt roles, and we advocate for our surrogates within them, although sometimes it's kind of hard to see. It begins as early as the stages

where we're procuring and reviewing health records and social history of potential surrogates. And while it might not feel like advocacy, to actually deny someone as a surrogate or to tell them that right now is not a good time for them to be one is actually advocating on their behalf.

Why deny?

There's only one main concern when it comes to being chosen as a surrogate. The only reason that someone would be denied would be if it wouldn't be healthy for them to do it. They may have a health history of diabetes or another condition where an additional pregnancy would put them at risk. So we would actually have to deny a potential surrogate for that.

A surrogacy will also be delayed due to a divorce, a recent death in the family, or circumstances which pose an emotional time for a potential surrogate. We'll put the brakes on and halt moving forward to protect our surrogate.

Other roles? The agency is going to interview you. It will explain the process. It will be your informational advocate. It will let you know if surrogacy is not right for you. Your agency will let you know what's expected of you throughout the process—what the medications are going to be, the appointments, what the time factor is going to be, and other concerns.

In our program, once you've been accepted, the next step is to facilitate a psychological evaluation for you. This is one of those situations where the appointment's made, just like when you go to your doctor and you have your blood test, and you don't think twice about it until it's actually done. Then you're on pins and needles until you get that result.

Because it can take up to two weeks to get the psychological evaluation results, in our agency, I contact the surrogates

during that time. I give feedback, positive reinforcement, and just keep the edge off, which is what it feels like when you're waiting for the shoe to drop.

Your agency advocate will make your travel plans, and facilitate your doctors' appointments with a physician who has FDA approval, and will be following all of the correct protocols.

Legal facilitation

Surrogates should also be aware of the role the agency plays when it comes to legal issues. The agency will facilitate your legal appointments with an appropriate attorney. Just recently we had a surrogate who was ready to go and had found her own attorney through a family friend who swore he had done surrogacies before. Well, at the 11th hour, he didn't feel comfortable representing her in the state in which the contract was going to be written, as she was going to be delivering in a different state. Our role as the agency was to pull in another attorney and make sure that the surrogate got the legal coverage and protection that she needed and deserved.

Facilitating the match meeting is another important agency role. We make sure we find someone like-minded, who is looking for the same experience. We're going to be present for you at that meeting. We're going to acknowledge and work with you on your sense of "anxitement"—when you're undecided about what to wear and what's it going to be like, where anxiety and excitement mix together.

The surrogacy arrangement is an unusual situation, where you become very close very quickly, which leads me to one of the biggest ways an agency is going to advocate for you. It will be your emotional support. Throughout the process, the agency will be there for you, your emotional support and your communication facilitator with your intended parents.

In our program, it begins after the contracting is done. We encourage contact. We get the

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Agency as Advocate (con’t)

exchange of e-mail addresses, the exchange of phone numbers going. We’ll be there for the inevitable breakdowns in communication to help smooth them over, clear them up.

We had a situation not too long ago where an e-mail was sent by the intended parents with a line in it meant to be humorous. It was completely misunderstood by the surrogate and deemed very offensive. By clarifying what the intended parents meant, explaining it to the surrogate and getting them all on the phone together so that there were no hard feelings, it was easily surpassed. But your agency needs to be active in your relationship with the intended parents.

The agency also needs to be there for a major key component of post-delivery support. After the delivery, the intended parents are moving on. You have been a main person in their lives, but now their baby is. It’s not that you’re thrown by the wayside, but their priorities have shifted, as I’m sure you can remember when you brought home your first baby and you were all-consuming.

Find your agency

So where do you find an appropriate agency? You have to do your homework when you’re choosing an agency. Ask for references. Have you known anyone who’s been a surrogate? Ask them. Pick their brains.

When you do make contact with an agency, ask if you can talk to any of their past or current surrogates. I always have several ready and waiting, who have delivered or are currently pregnant, who are available for potential surrogates to speak with so that they can get a view of what’s going on. You may also want to call a fertility center to see what their thoughts are.

Other things to look for? Where they’re located. You don’t want someone who’s working

out of their basement. You want them to have an office, someplace where you can meet the intended parents. This is a very personal thing that you don’t want to discuss in a coffee shop with people listening. Ask how long the agency has been in existence. You want to know how many matches they’ve done, how many babies they’ve had born, how many current matches they have. Do they have the staff to support the current matches? Or are you going to be left on your own?

More to consider

And when it comes to the financial aspect of the process, there are other issues a surrogate needs to keep in mind. With regard to legal issues, you also want to make sure that the compensation is truly yours, that it’s not going to go toward your medical or your legal bills.

Another key aspect is the availability of your agency’s representative. In our program, all of my surrogates have my cell phone number, even though they don’t use

it as much as I’d like. I’d rather hear when things are going on, not after the fact, but frequently they don’t want to be bothersome, which is the nature of the lovely women that they are. But I do want to know and I do give my cell phone.

So basically there are many agencies out there.

Your agency will be your advocate, but you also have to be your own advocate by doing your homework.

Five years down the road, the physical component of this—the morning sickness, the labor, the delivery—is barely going to be a memory. Do all you can to make the emotional component a happy, long-lasting memory. And you can do that by choosing an appropriate agency. ■



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Creating families. For many, it’s an easily attained lifetime achievement. But too many others are unable to realize parenthood because of fertility issues.

Alternative Reproductive Resources helps make parenthood possible. Since 1992, our agency has been creating a community, including trusted medical professionals, intended parents, and the egg donors and gestational surrogates whose assistance make it all possible.

The use of assisted reproductive technology can be an overwhelming and confusing path. The growing use of donors as a solution to fertility problems has also raised legal and ethical concerns. We at ARR have set the bar on standards in our quest to help people like you—intended parents, egg donors or surrogates—achieve the best possible outcome. Our dedication to upholding these standards is reflected in our code of ethics.

Explore our website to learn more about our approach, and we welcome you to contact us directly.

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