

## Assisted Reproductive Technology and Parentage Testing

**Policy Number** 1.438

**Policy Function** Continuum of Care

**Issue Date** 23 April 2018

**Summary** This policy provides directions on the roles and responsibilities of Justice Health and Forensic Mental Health staff in assisting patients undergoing Assisted Reproductive programs if undergoing medical procedures that may render them infertile or requesting Parentage Testing.

**Responsible Officer** Executive Director Clinical Operations

**Applicable Sites**

- Administration Centres
- Community Sites (e.g. Court Liaison Service, Community Integration Team, etc.)
- Health Centres (Adult Correctional Centres or Police Cells)
- Health Centres (Juvenile Justice Centres)
- Long Bay Hospital
- Forensic Hospital

**Previous Issue(s)** Policy 1.438 (Dec 2015)

**Change Summary**

- Updated title
- Update information re parentage testing
- Additional information regarding private requests for assisted reproductive technology/parentage to be managed as a private health service

**TRIM Reference** POLJH/1438

**Authorised by** Chief Executive, Justice Health & Forensic Mental Health Network

## 1. Preface

Assisted Reproductive Technology (ART), in the custodial environment may only be considered for patients undergoing medical procedures that may render them infertile. ART procedures (artificial insemination (AI), embryo transfer (ET), gamete intra-fallopian transfer (GIFT) and in vitro fertilisation (IVF)) are used to assist patients who are unable to conceive naturally. Insemination and ART are used in a number of situations to assist with conception, these situations include, but are not limited to:

- infertility on the part of a male or female having undergone medical procedures that may render them infertile;
- collection and storage of ova or sperm (gametes) for patients who are about to undergo medical procedures that will render them infertile following treatment.

Legal DNA testing for parentage can be requested when the parentage of a child may be in doubt. This may be through a Parentage Court Order or directly requested parentage by a patient. Legal DNA testing for parentage is a process managed by Corrective Services NSW (CSNSW), the private operators or Juvenile Justice New South Wales (JJNSW) for patients in custody. Justice Health & Forensic Mental Health Network (JH&FMHN) manage the process for patients in the Forensic Hospital.

## 2. Policy Content

### 2.1. Mandatory Requirements

#### 2.1.1. Objectives

- To ensure the correct approval process is followed when persons in custody are undergoing medical procedures that render them infertile and seek JH&FMHN assistance associated with ART.

#### 2.1.2. Outcomes

- Patients who have received permission from the Commissioner Corrective Services New South Wales (CSNSW) to undertake ART receive appropriate and timely assistance.
- The correct approval process for JH&FMHN involvement has been followed prior to any offer of advice to the patient.
- Patients requiring parentage testing are managed by CSNSW, the private operators or JJNSW.

### 2.2. Implementation - Roles & Responsibilities

It is the responsibility of all clinical staff to follow this policy and to ensure that any requests for assistance with gamete collection related to ART are referred to the Executive Director Clinical Operations (EDCO).

## 3. Procedure Content

### 3.1. Assisted Reproductive Technology (ART)

JH&FMHN staff must not engage in assisting patients with ART procedures except where the patient is to undergo a medical procedure that may render them infertile and the patient has received permission from the Commissioner CSNSW for adult patients or the Executive Director JJNSW. For adolescent Forensic

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Hospital patients under the age of 16 years, approval for sterilisation must be provided by the Mental Health Review Tribunal.

Patients undergoing a medical procedure that may render them infertile should be counselled by the treating specialist about the option of collecting gametes and storage for later use. This counselling will occur in the hospital in which the patient is being treated, and any collection and storage of gametes will be the responsibility of the treating specialist team.

Where the collection of gametes has been recommended by a treating specialist, and collection is to occur within the custodial environment, the patient will be required to make a request to the Commissioner CSNSW or Executive Director JJNSW for approval. If approved, JH&FMHN staff should then facilitate the gamete collection, including transfer of the gametes to the treating hospital as needed. All gamete collection for adolescent patients must occur in the treating hospital.

Requests from CSNSW or JJNSW for supporting medical information for a patient must be forwarded to the EDCO.

JH&FMHN will provide the medical information verifying the need for ART for a patient to the Commissioner CSNSW or the Executive Director JJNSW to assist in making a decision to approve or decline the request for gamete collection. JH&FMHN policy [4.030 Requesting and Disclosing Health Information](#) must be followed. JH&FMHN should source the information from the treating hospital specialist responsible for making the recommendation for collection of gametes.

JH&FMHN staff members must not engage in assisting a patient with the collection of gametes for any purpose other than as defined in this policy. Approval by the Commissioner CSNSW or Executive director JJNSW and permission from the EDCO is required.

Patients who wish to engage in ART as part of an IVF program that is not related to infertility due to a medical condition/intervention must negotiate with CSNSW or JJNSW for the private collection of gametes. JH&FMHN staff must not be involved in this process.

Patients and or partners of patients that commenced on an IVF program in the community prior to incarceration, and who wish to continue in the program, are required to make a request to the Commissioner CSNSW or the Executive Director JJNSW for approval for JH&FMHN staff to facilitate continued participation in the program. JH&FMHN staff must not provide any expert opinion or input into decisions regarding ongoing participation in external IVF programs. Any expert medical or clinical advice must be sourced by the patient from private non-JH&FMHN clinicians.

### 3.2. Parentage Testing - Court Ordered Legal DNA Testing

Court Ordered Parentage Tests or Legal DNA Testing for Parentage, are not an essential health requirement and not a service provided by JH&FMHN. For patients in custody, Court Ordered Parentage Tests or Legal DNA Testing for Parentage are facilitated and managed by CSNSW/the private operators/JJNSW. JH&FMHN may facilitate a court ordered test for Forensic Hospital patients

JH&FMHN staff must refer any requests for the collection of pathology for parentage testing to the JH&FMHN Legal Advisor, Governance Unit for custodial health patients, or to the Mental Health Legal Advisor for Forensic Hospital patients. The JH&FMHN Legal Advisor will provide advice about the correct process for carrying out paternity testing in accordance with any court orders and applicable legislation. Collection of pathology for paternity testing will only occur if the Legal Advisor advises that is required by law and should be carried out. Where JH&FMHN staff are advised that they are legally required to assist with

paternity testing, staff in the health centre where the patient is located will collect the specimen requested and provide to the court the pathology results in accordance with legal advice.

Court Ordered Legal Parentage Testing reports must be admissible for legal purposes. These procedures involve the verification of identity on the day of collection, and all samples for Legal DNA testing are collected and transported ensuring chain of custody processes are followed.

CSNSW/the private operators manages Legal DNA Parentage testing. CSNSW/the private operators submit an application form to an accredited DNA lab, with details of location, the security manager's details and the client's MIN number and evidence of the clients consent to testing. There are charges associated with collection and testing.

The legal DNA lab liaises with the correctional centre regarding an appointment for collection to ensure that a justice of the peace or solicitor is present as well as appropriate client's cell ID (photo ID). Specimen collection involves two mouth swabs.

JH&FMHN will not approve any requests for Parentage Testing that are not court ordered.

## 4. Definitions

### **Assisted Reproduction Technology (ART)**

ART Includes a range of methods used to circumvent human infertility, including IVF, embryo transfer (ET), gamete intra-fallopian transfer (GIFT), artificial insemination (AI) and all manipulative procedures involving gametes and embryos and treatment to induce ovulation or spermatogenesis when used in conjunction with the above methods.

### **In Vitro Fertilisation (IVF)**

A procedure whereby an egg (or more than one egg) is retrieved from the body of a woman and combined with sperm outside the body to achieve fertilisation. If fertilisation is successful and the fertilised egg continues to develop to form an embryo, the embryo is subsequently transferred back into the uterus/fallopian tube of a woman with the aim of achieving a pregnancy.

### **Must**

Indicates a mandatory action to be complied with.

### **Should**

Indicates a recommended action to be complied with unless there are sound reasons for taking a different course of action.

## 5. Legislation and Related Documents

NSW MoH Policy Directives and Guidelines [GL2006\\_011 Assisted Reproductive Technology – Ethical Guidelines](#)

External Website [National Health and Medical Research Council – Ethical guidelines on the use of assisted reproductive technology in clinical practice and research \(2017\)](#)