

Disposition of abandoned embryos

The Ethics Committee of the American Society for Reproductive Medicine

Birmingham, Alabama

Couples undergoing in vitro fertilization who consent to cryopreservation of embryos usually state in writing their wishes regarding future disposition of cryopreserved embryos. In some cases, however, couples have not stated their wishes and cannot be contacted to make their wishes known, which poses a problem for programs faced with continued storage of the couples' embryos.

Because of the uncertainties that exist in such a situation, programs should require each couple contemplating embryo storage to give written instruction concerning disposition of embryos in the case of death, divorce, separation, failure to pay storage charges, inability to agree on disposition in the future, or lack of contact with the program. The cryopreservation consent form should state specifically that the program may dispose of embryos if no contact with the program has occurred for a specified period, and the couple has not kept the program informed of their current address and telephone number. A couple may jointly agree at a later time to alter any advance directions for disposition of embryos by submission of a new set of written directions for disposition of stored embryos.

In cases in which written directions for disposition of embryos does not exist, a program will be faced with continued storage or disposal of embryos. At present, the law does not give clear guidance on this issue, though it is reasonable to assume that the law will treat the embryos, after a certain passage of time, as abandoned. In the face of legal uncertainty, some programs might prefer to continue storage indefinitely. Other programs will find the risk of liability to be acceptable and dispose of embryos after a lengthy passage of time and unsuccessful efforts to contact the couple.

As an ethical matter, a program should be free to dispose of embryos after a passage of time that reasonably suggests that the couple has abandoned the embryos. A program's willingness to store embryos does not imply an ethical obligation to store them indefinitely. A couple that has not given written instruction for disposition, has not been in contact with the program for a substantial period of time, and has not provided a current address and telephone number cannot reasonably claim injury if the program treats the embryos as abandoned and disposes of them.

The Ethics Committee finds that it is ethically acceptable for a program to consider embryos to have been abandoned if more than five years have passed since contact with a couple, diligent efforts have been made by telephone and registered mail to contact the couple at their last known address, and no written instruction from the couple exists concerning disposition. In implementing this standard, a program should make diligent efforts to contact the couple at the last known address both by telephone and registered mail, return receipt requested.

If a program reasonably determines under this standard that embryos have been abandoned, the Ethics Committee concludes that the program may dispose of the embryos by removal from storage and thawing without transfer. In no case without prior consent, should embryos deemed abandoned be donated to other couples or be used in research.

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