

THE TENNESSEAN

HEALTH

Tennessee fertilization docs keeping wary eye on state abortion ban and future proposals



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Published 9:01 p.m. CT July 20, 2022 | Updated 9:22 a.m. CT July 28, 2022

Key Points

IVF providers don't believe the state's trigger law affects their practices

Anti-abortion groups have been critical of IVF practices

Some IVF advocates worry new laws will put their practices at risk

Tennessee's abortion ban won't immediately affect invitro-fertilization providers and their common practice of discarding fertilized embryos, the state's practitioners believe.

But IVF advocates worry that the growing movement to declare even fertilized eggs as "persons" in other states could expand here, effectively leading to bans on certain types of birth control and stripping infertile parents' rights to determine the fates of their own embryos.

"The immediate effect (of the law) is that there is no effect on IVF and the use or ability to make decisions on embryos that are created through IVF," said Dr. Jessica Scotchie, director of Tennessee Reproductive Medicine in Chatanooga. "The real concern that our profession has is the continual erosion of people's autonomy to make their own reproductive health decisions."

Tennessee is home to at least 10 IVF clinics, which are located in Nashville, Chatanooga, Memphis, Johnson City, Knoxville and Franklin. IVF is responsible for 84,000 U.S. births a year, according to the Centers for Disease Control and Prevention.

The Guttmacher Institute, a research organization that supports abortion rights, has identified six states that have proposed so-called "personhood" bills this year that would define life as beginning as early as fertilization.

IVF treatment often involves creating more embryos than would-be parents need. Some also show signs of genetic problems. Such extras and unviable fertilized eggs are destroyed, donated to science or donated to others in need.

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The Tennessee Office of the Attorney General has declined to comment on how the new abortion law should be interpreted with regard to IVF treatment. A Tennessean public records request similarly turned up no correspondence between the office and providers about the law.

Spokeswoman Samantha Fisher said only: "At this time all we can do is point you to the law itself."

Tennessee's abortion ban makes it illegal to "terminate the pregnancy of a woman known to be pregnant," unless the mother's life is at risk.

It further defines pregnancy as "the human female reproductive condition of having a living unborn child within her body throughout the entire embryonic and fetal stages of the unborn child from fertilization until birth."

So, by that standard, IVF practitioners believe that fertilized embryos that have not been transferred to a uterus do not qualify as an unborn child as envisioned by the state's abortion ban.

"We continue to monitor all current proposed legislation that could impact IVF services, but based on our experts' review of proposed legislation, there is no indication that our state is limiting IVF care specifically," read a written statement from the Tennessee Fertility Institute, which operates a clinic in Nashville.

The Society of Assisted Reproductive Technology, the national lobby group for IVF practitioners, published a report last month that also concluded that Tennessee's trigger law "will likely have no impact" on the state's providers.

Again, the Attorney General's Office did not comment on that interpretation.

Tennessee Right to Life's vice president, Angela Maden dismissed concerns about the trigger law as it relates to IVF.

"The Human Life Protection Act has nothing to do with IVF treatment or fertilized embryos. It only prohibits elective abortion," Maden said in an email. "Any connection between this law and IVF is misinformation."

But Right to Life groups have expressed concerns about IVF practices. For instance, the Illinois chapter believes "IVF technology directly and continuously initiates the destruction of human beings."

Julia Tate-Keith, a Murfreesboro-based attorney specializing in fertility law, believes IVF practices could eventually be targeted.

She points to Tennessee legislation proposed earlier this year that would have expanded child abuse and neglect laws to the unborn.

Those covered in the bill, which failed to pass this last session, included any "individual living member of the species, homo sapiens, throughout the entire embryonic and fetal stages of the unborn child from fertilization to full gestation and childbirth."

"It's not a far stretch to see this being applied to (IVF) embryos," she said. "If it is, that will preclude fertility doctors from discarding embryos which have defects which make them incompatible with life or embryos which patients simply do not need in order to complete their families."

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