Is Intention Enough? Legal Parentage in the Era of Assisted Reproductive Technologies

Katarina Lee, JD, MA

Clinical Ethics Fellow, Baylor College of Medicine’s Center for Medical Ethics and Health Policy
Purpose is to explore the legal dimensions of *intentionality* in regard to determining parentage of children created through ARTs

- Inspired by the proposal of an updated Uniform Parentage Act (UPA) in 2017
- My primary research methodology is publication research and legal research
Terminology

- **Genetic Parent** has a genetic tie to the child, typically, 2 genetic parents, a genetic father and a genetic mother; however, with the advancement of mitochondrial replacement techniques it is possible for a child to have 2 genetic mothers and 1 genetic father.

- **Gestational Parent** is an individual who gives birth to a child.

- **Intended Parent** is an individual who intends to raise and provide for a child, regardless of gestational or genetic tie.
History – Uniform Parentage Act

1973: 19 states adopted

2002: 11 states adopted
Legal Benefits and Disadvantages

**Benefits:**

- Parties who do not have a genetic or gestational tie to children they are invested in raising will be legally recognized as parents
- Alleviates discriminatory practices in which individuals would have the same accessibility to be legally recognized, particularly in regard to same-sex couples

**Disadvantages:**

- Lack of clarity as to when intention should apply and to what parties as well as jurisdictional questions regarding legal parentage
- Parties will forum or jurisdiction “hop” in order to seek third-party reproduction
- Internationally, there are significant concerns of whether intention is recognized, as well as legal requirements for parentage
Perfect World Proposal

• Federal Law granting legal parentage based upon the bests interest of the child
• Multiple legal parents, single legal parents
• Would prevent state differences, would address international considerations
• Problem: Impossible
Questions?

katarina.lee@bcm.edu