



Understanding the Medical and Legal Aspects of Surrogacy - An Option in Infertility

Surrogacy is a method of assisted reproduction for people who are unable to conceive due to medical complications or other reasons. It is an agreement where a woman agrees to carry a pregnancy for a couple or a person, who will become the baby's parent after birth. Surrogacy has been a controversial issue around the world and involves a lot of complicated contracts that intended parents as well as surrogates need to abide by. We are discussing the medical and legal aspects of surrogacy with reproductive endocrinologist Dr. Aimee D. Eyvazzadeh, reproductive/fertility lawyer Gregory M Field, and Emily M Field who became a mother through surrogacy.

Full Transcript:

Shweta Mishra: Good evening and welcome to CureTalks. I'm Shweta Mishra, your host joining you from India, and this evening on CureTalks' 136th episode, we are going to talk about the medical and legal aspects of surrogacy as a family building option. Surrogacy is a method of assisted reproduction wherein an agreement is made with a woman called a surrogate to carry of pregnancy for a couple of other person called the intended parents who will become the baby's parents after birth, but because of the medical and legal complexities and the sensitive nature of the process surrogacy has always been a controversial issue around the world. It involves a lot of complicated contracts that intended parents as well as surrogates need to abide by. More over both intended parents and surrogates need answers for many questions before embarking on this journey of surrogacy. So what is the process of choosing a surrogate? What is the expected involvement of the intended parents and surrogates care throughout and after pregnancy? How long does it take to be matched to a surrogate? What are the legal contracts and what is the cost involved? These are just only a few of many of the questions that we aim to get answers for, from our eminent experts today.

The experts on our panel today include Dr Aimee D Eyvazzadeh, also known as the Egg Whisperer is one of America's most famous fertility doctors. She's a Harvard educated board certified OBGYN specializing in reproductive endocrinology and infertility, but it's her egg freezing party that has made her a media darling and she's been featured in magazines like People, Marie Claire and has been also featured on Today show, Good Morning America, CBS Morning, Fox Network along with a number of other news channels. Mr Gregory M Field M Field on the panel is an attorney and partner with Field Fertility, Goldfarb, Zeidner & Field Attorney at law. A Rising Star awardee and a member of several prestigious societies, as a third party reproductive lawyer, Mr. Field represents surrogates, egg donors, intended parents and embryo donors. Emily Dubinfield with also the co host for today is a mom, thanks to IVF and surrogacy after a long and emotional fertility journey, which she is very open about. She has her MBA in nonprofit management and is also a member of the society of egg donation and surrogacy. As formal intended parents having a daughter via surrogacy, Mr Field and his wife Emily are very proud to help others from a perspective of having been through it themselves. So I welcome you all took your Dr Amy, Mr. Field and Emily and I extend a hearty welcome to all my listeners and I would like to remind the listeners that we will be discussing questions the end of the talk. So you get an email your questions at shweta@trialx.com And if you would like to ask the question live, please press one or a keypad and we'll bring you on air to ask them or you can also post your questions on the CureTalks website as you listen to the show. So let's begin. I'll begin with you. Dr. Amy. Could you please explain surrogacy in very simple terms for our audience and let us know briefly the eligibility criteria that you would look for in your patients so as to just suggest them to choose surrogacy as a family building options?

Dr Aimee Eyvazzadeh: Absolutely. So the term surrogate refers to a carrier woman who I would say



describe themselves as the ultimate babysitter. So it refers to a term, for a woman who carries a pregnancy for another person or persons and we refer to this other person's intended parents and these women care for the intended parents' baby for nine months and they're very happy to give the parents their baby after the nine months are over. And so the eligibility criteria are age over 21 under 40, a healthy BMI, no medical problems, no psychiatric issues, have previously delivered a baby and they also have a child at home. We like surrogates to be in a stable home, having a stable home life and if they're in a relationship, you want the partner to be also supportive as well.

Shweta: Alright. Thank you so much for that comprehensive overview. Mr Field I'll move on over to you. Could you please prime our audience about the very basic legal issues that the intended parents should be aware of before they plan to go ahead with surrogacy?

Greggory M Field: Yes, certainly and thanks for having me. Well, it's important to know that surrogacy laws differ by state and by country. For example, I practice in California where it's the most surrogacy friendly state, whereas in a state like New York, it's illegal. If you are intended parents in another country, really anywhere in the world has different laws like China or Germany or Spain or Italy. So whether you're heterosexual, same sex or single, it matters. Regardless every arrangement will have a contract between the intended parents and the surrogate and the whole idea of the contract is to express the intent of everybody involved to make sure you're on the same page and if you're working with an agency even before coming to an attorney, there's a benefit package in terms that the agency goes through with both sides which is agreed upon beforehand. And then ultimately depending upon the states, like in California, midway through the pregnancy, there'll be court documents to fill out declaring the intended parents as illegal parents. And if international, there may be some extra steps to do it for embassy.

Shweta: Alright. Thank you so much for your answer. And, at this point I will bring in Emily for the discussion. Emily, before you go on to ask your questions to Dr Aimee and Mr. Field, from the perspective of an intended parent, I know that your miracle daughter born via surrogacy is now almost three years old. Could you very briefly share with us if there's anything that you know now about surrogacy that you wished you would have known before starting the procedure?

Emily Dubinfield: Yes, absolutely. Certainly. And thank you so much. I know I speak on behalf of all of the panelists today for what a wonderful opportunity. We really appreciate you putting this on and putting together such a great panel and topic for today. It's really so important for intended parents and surrogates and for all of our listeners today. So yes, I get asked this question a lot. Our daughter is now three years old, so we've now been through this personally and also professionally over the last number of years. One big thing that, I didn't really know to ask, but now I tell prospective intended parents is when you're being matched with the surrogate, be sure to ask who the surrogate's OB is and what hospital the baby will be born at and does the hospital have a NICU? So we got really lucky with our surrogate, she is an incredible OB and an amazing hospital where our daughter was born that also has a NICU. So we got really lucky there but it wasn't something that we really knew to ask about. So I definitely encourage prospective intended parents when you're being matched to ask the agencies that and if for some reason after doing research of the OB or of the hospital you have concerns or you would like to see if your surgeon would be willing to switch, that is something that's important in being matched and being able to work through that. So it's definitely one of the many things that I tell prospective parents that I didn't know that and I know now.

Shweta: Okay. So do you mean to say that the intended parents don't have any say in the surrogate choosing their OBGYN or a hospital where she will be delivering?

Emily: Yeah, definitely do, for sure and it's all, it's all part of it and I just so you know, surrogates have, had one child or several children and they have their OB and the hospital where their child or children were born. So usually that's where your baby will be born and the OB that will care for your baby the second and third trimester. So it's just something to look at and something to talk about with your agency and with your surrogate, if you would like her to go somewhere else or to a different hospital. So it's definitely an important discussion to have.



Shweta: Okay. Thank you for that great tip to people who are looking out to be a surrogate and who are looking to be intended parents. So I'm sure you have many questions for Dr Aimee as well as Mr. Field which will resonate with our audience out there. So please go ahead with your question.

Emily: Alright. So Dr Amy and Gregg, I've prepared for you, a list of questions and I'll kind of go back and forth between the two of you just so you don't have to each stop for a long period of time. We'll go back and forth and hopefully these questions are a great value and interest to our listeners today. So Dr. Amy, I'm going to start with you. When you do the medical screening of a surrogate, what does this screening consist of? What are you testing for? What are you looking at? And most importantly a question I hear a lot is what would make you rule out a surrogate medically?

Dr Aimee Eyvazzadeh: So when I screen a surrogate, it actually happens before she even gets to my office. I think that for families that are looking for surrogates, there's so much heartbreak that's involved with the whole infertility process of being a patient and then meeting people that potentially are looking through profiles that potentially that you would never use. I want to reduce the number of contacts that intended parents have. And what I mean by that is I like to even pre-screen before even doing medical screening, so I think step one for me is looking through all the medical records of a surrogate first to make sure that she's a suitable carrier for my patients and I even do a call with them before they even come into my office. And then once they're actually physically here and even before then I really like to get to know them personally. I mean at the end of the day they're sacrificing a lot, they're giving so much of themselves and I want to make sure that the relationship that they have with the intended parents is kind of what they want it to be. So it's really important for me to get to know the reason behind why they want to be a surrogate. What kind of relationship do they want? Because if the surrogate and the intended parents aren't evenly keeled when it comes to that, I find that you can have a lot of issues with personalities and communication. So if you deal with those things upfront and you match people that are like minded about relationships and how closely they want to be involved during the pregnancy and after and how much communication they should be having on a weekly basis, daily basis. Should the intended parents be at the OBs, we want everyone to be on the same page. So I also talk to them about what they consider a transferring two embryos. Certainly we know that it's safer to transfer one embryo at a time, but I'd actually like to know ahead of time if the surrogate would even be open to that. And then when we do the test, their routine preconception labs, looking at things like HIV and the required labs by the health department, I'd like to make sure that vitamin D levels are normal, the thyroid's normal, the prolactin is normal. We do a saline Sonogram to look at the uterus to make sure that there aren't any polyps, fibroids or issues with scar tissue. We do a drug screen and then if they are partnered in a sexually intimate relationship with someone, we do like to check the partners labs as well.

And, and if let's say it doesn't seem like things are a good match, what if I have a gut that this just isn't going to be a good match, I just say it right upfront because while it's disappointing to start interviewing people and feel like it's not a good match, it's very disappointing to be in a surrogate relationship as a surrogate with a family that let's say, you want less contact, they want more contact or vice versa. It can be very frustrating for everybody involved.

Emily: Yeah, absolutely. You hit on such an amazing point that your role is even more than a doctor, you really are trying to make sure that the match is right. And the agency does that and you do that in the mental health professional does that. So, you know, I just think it really goes to how cohesive as an industry we are, everybody wants the same thing. One of the things you touched about at the beginning is I think it's incredible that you support even a surrogate comes in, you talk to her on the phone and you of course you review her medical files. Could you just take a moment and let listeners know what you're doing on that call or what you're looking for, full term birth number of C-sections?

Dr Aimee Eyvazzadeh: Right. So, a lot of women want to be surrogates and sometimes they don't realize that they might've had a medical complication in pregnancy. Maybe people said things like, oh, your blood pressure is high, but the surrogate actually didn't. Or the prospective surrogate didn't realize that that's actually a condition called Preeclampsia. And having a condition called Preeclampsia, is very high risk. And



so that isn't, let's say, someone that I would recommend to be a surrogate in the future. So it's really important for me to talk to the surrogate, look at the medical records, review everything, and make sure that everything is consistent. I feel very strongly that this person is not putting her life at risk to carry a pregnancy for another family and she's not going to do something that's going to compromise her current family's ability to move forward after she delivers the baby. So by talking to her, by reviewing the records and sometimes I'll even say, oh look, your thyroid was a little bit elevated or you were a little bit anemic. Let's just check those levels as soon as you get care and make sure that everything is absolutely perfect for you before we really fully commit to you doing this.

Emily: Yeah, that's wonderful. Thanks for sharing all that information. I'm going to come back to you, but right now I'm just going to jump to Gregg for a moment. Gregg, if you could take a moment and let us know what the legal process like, not to get into all the details but just from a high level and explain the two main parts of the legal process and when the attorney would get involved with the intended parents and also with the surrogate.

Greggory M Field: Sure. So, briefly the two main parts of the contract, there are two main parts of the contract and in California we also have the pre birth order, so most of the time the legal part is the last thing that happens before medication starts. Dr Amy can probably say she's waiting for legal clearance all the time before she can start medication and that is sometimes even the day of, right Dr ?

Dr Aimee Eyvazzadeh: Yes. I mean I do, we don't like those kinds of emergencies that makes my heart race a little bit, but yes.

Greggory M Field: Yeah. So by the time we get to legal, it seems that always everybody seems to be in a rush, but we always make sure that the contract is fully understood because that is everything. The whole idea of the contract is to express the intent of the parties. We want to make sure everyone's on the same page. We'll discuss the number of embryos to be transferred. We'll discuss health insurance, conduct, like if intended parents, want somebody to avoid particular foods, travel like if the surrogate has any trips planned or how far she can go from the hospital after a certain week of pregnancy. We'll also discuss abortion language when the IPs or intended parents would or would not want to abort and also whether the surrogate and her partner would agree. We'll review the benefits to be paid out to make sure everything matches the benefit package that you went through with the agency and make sure there are no changes and by the way with regard to pay out, there's a part in the contract that informs everybody of the escrow account. The escrow account is where all the money is kept to pay out the benefits. And then the second part of the legal process I mentioned before, in California, it's a pre birth order and there what's happening is the intended parents are considered the petitioners. What they do is they petition the court to declare them through a judgment as the legal errands. That way the delivering hospital knows they are allowed by law to release the baby to the intended parents. The surrogate and her partner, they'll, if there is one, they'll respond, they're called the respondents whereby they agree that they should happen, there's no hearings necessary and that they support the judgment. Everyone's going to have to sign in the beginning the contract and have it notarized and then in the middle, a bunch of court forms including declaration saying you performed everything as agreed upon in the contract and that you support this agreement. So those are the two main parts to this legal process.

Emily: All right, thank you. Thank you for that. And about how long does it take, like say to do the legal contracts between the party?

Greggory M Field: Yeah. You know that depends on the attorneys handling the contracts. I would say often, it could take even a month. So the process for that is the intended parents are first going to review the contract drafted by their attorney. So if I was the attorney, I would draft the contract, I would send it to the intended parents and I would go through that whole contract with them. If there are any changes, we would make changes and then and only then are we then going to send it over to the surrogate's attorney and so then the surrogate's attorney will take that contract and they'll review everything with the surrogate. If there are some changes, they'll send back those changes, which I would go over with the intended parents and



ultimately we would come together on a final agreement. Once we do that, everybody will sign their own contracts and have it notarized at which point legal clearance will happen. So that process, sometimes can get done within days. Most of the time not, other times it could take weeks just depending upon how long it takes in people's hands if the surrogates reviewing it for awhile or the intended parents are reviewing it for awhile, but everybody really does understand the urgency involved.

Emily: That was very informative. Alright, Dr Amy, I'm gonna head back over to you. I have a series of questions related to embryo transfer, so I'll kind of just, I'll do a question at a time and let you go from there. What's the process like to get a surrogate ready for the embryo transfer?

Dr Aimee Eyvazzadeh: So typically if the surrogate has been a surrogate in the past, I always look at previous records and I look at protocols that were in place for her before where she was successful in and so I always like to learn from that, but typically a surrogate will take hormones to mimic a normal menstrual cycle and we do that with estrogen and progesterone and there are different modes of administration of these drugs, so they might take pills, patches, injections. There are also other medications to make sure she doesn't ovulate. that medication is called Lupron, it is a self administered shot that she places on the skin of her tummy usually for about a month before the transfer and those medications continue until 10 weeks of pregnancy because that's approximately when the placenta has completely taken over progesterone and estrogen production and then the placenta takes over from there.

Emily: Alright, now once that's done and you know you're ready for the embryo transfer, what's that process like for the surrogate and also for the intended parents? I hear that question a lot of what this process like and I'd be in the room, am I not in the room? What is that embryo process like for both parties?

Dr Aimee Eyvazzadeh: And that's actually one of the screening like when I do a medical screening appointment, that's one of the things that we go over is would the surrogate feel comfortable with intended parents in the room, will the surrogate feel comfortable with them in the room at delivery, those are the things that I want to make sure that everyone's on the same page about because you don't want intended parents there and feeling disappointed that they're not being let in, and this is just to be funny, but actually totally true I've designed a pair of yoga pants that have an opening in the crotch part so that a surrogate would feel very comfortable doing procedures in front of intended parents without feeling like she's exposed. It's the truth.

Emily: Do you sell them on Etsy or something... that's amazing.

Dr Aimee Eyvazzadeh: I don't have an ecommerce site. I give them as gifts, but eventually for other people who want them, they will be for sale in 2018, but it's just a way to make the experience a little bit easier. I know. I'll send you a picture of them. So it's a really, really special day for everybody and everyone's excited. So for me, I give my surrogates and everybody who does a transfer a volume 30 minutes before and that are 50 percent just to relax the uterus and the surrogate comes with a full bladder just so we can see the uterus on ultrasound guidance and ultrasonographer is usually in the room also with a probe over the tummy, looking at the catheter as it goes in. It's basically like a pap smear but not a pap smear. So a catheter goes into the uterus and we see something that I call the spark of life. So that's the flash of fluid coming out of the catheter and it's kind of reflection of where the embryo is. So it's a really special time for everybody. So that's the transfer day. And typically my surrogate had the option to do pre and post transfer acupuncture and lie down for a little bit, either go to acupuncture or go home and rest for the next two days.

Emily: That's so wonderful. I remember my husband and I, Gregg and I did get to be in the room with our surrogate and her husband was there. We sat in the right spot, up at her head and watches the embryologist, came in with a catheter and she was amazing. She's like, I'm your child's first babysitter and our fertility doctor, it was amazing. It took photos and videos and it was just, unbelievable to witness it. So I always like to tell parents if it's possible to be there. Okay. So one of the next questions about the embryo transfer is in all your experience, this is a very popular question. Do most embryo transfers with surrogate take on the transfer. If not, what are some reasons that may not work?



Dr Aimee Eyvazzadeh: When you're dealing with human biology or dealing with a process, it's not 100% efficient. And so embryos have a chance for pregnancy and it's related to two things, whether the embryo is chromosomally normal or not and the strength of the embryo and the strength of the embryo comes from a number of things like mitochondrial content and things like that. There's so many genetic factors that are in play and we don't know everything there is to know. I wish we did. We probably know about five% of really what it takes or an embryo to stick and grow. So I would like to think that the majority of my transfers work the first time, but I've certainly had cases that were a little bit more challenging or I've had surrogates miscarry. So it's just really important that if you're an intended parents to talk to your fertility doctor and ask them that question based on the strength of my embryos, what do you think my chances are? How many transfers do you think it will take? Because if you're going in thinking that it's going to happen the first time, you can imagine that will be really disappointing. But if you go in realizing that you're dealing with something that's maybe 50-50, maybe 60%, maybe 75% because of the strength of the embryos going in, then at least you understand that this is a process and if you go in realizing that I'm going to be okay whether it's going to work or not, but I'm not going to give up and I'm going to be a parent one way or another, you can imagine that you're a little bit more emotionally prepared for some of the ups and downs as you go through surrogacy.

Emily: Absolutely. So then after the embryo transfer, how long is the wait period until the blood test, if you could just shed some light on that?

Dr Aimee Eyvazzadeh: So that's one thing a lot of people do. I mean I see them and I see patients in these message boards and talking about doing urine tests early and that's one thing that we talked about before. I leave the room for the transfer and I say to everyone in the room, are you going, I say to the are you going to test early or not? And if you do, how are you going to communicate these results because you can imagine it would be really disappointing to have someone tell you that it's positive and really have had to be a false positive or have it be an early positive that turned into a negative by the time the blood test comes around. So I want to protect people and their emotions so I just kind of lay out some ground rules and say for me I test eight days post five day transfer and then with the blood test results I'm the one that communicates to everybody and then we can all do our happy dance for sure after that. But that's kind of my approach. Not everyone does that, but that's kind of how I deal with results. And then I like to repeat the level two days later, assuming everything is great. I see the surrogate two and a half weeks later for the first heartbeat ultrasound. And that's how I approached the, the early stages of pregnancy.

Emily: I think that's great. And I think for the patients out there who do have a different fertility doctor, don't, aren't near to ask, ask questions about that and who notifies them and do they in turn notify the surrogate or does the doctor, I think it just helps everybody feel a little more at ease with the process. So I think that's really wonderful that you lay that all out for everybody. So I just think that's awesome. Okay, I have a few more questions for you, but I'm going to go over to Gregg for a second. So Dr Aimee, I will be back with you. Alright, Gregg, I got some other legal questions for you. Can you explain to our listeners the standard type of terms and benefits that are outlined in the contract? You started to briefly talk about it before, but if you could elaborate a little further, that'd be great.

Greggory M Field: Sure. So, a lot of the terms that you end up having, or benefits that you have in the contract are things that are outlined by the agency if you have one beforehand. Some of those things are like the base fee, so this is for what a surrogate endures during the process of being pregnant, which she's paid out monthly after confirmation of fetal heartbeat. So for example, if it was a \$35,000 fee, then it'd be \$3,500 a month until a delivery with the balance paid after delivery. You would see in the contract a non-accountable monthly allowance. That's things for maybe like 200, 250, \$300 for incidentals, for example, over the counter medication, parking, certain mileage depending upon what the agency, postage charges, things like that. You'll see an embryo transfer fee, sometimes the medication start fee, once you start cycle medication to prepare for the transfer maternity clothing fee, depending upon whether you have a single or twins, invasive procedure fees. So for any invasive procedure you have to undergo a surrogate undergoes, for example, like an amnio or a reduction or an abortion, there's fees for those items. There are terms in the contract regarding insurance, health insurance for example, and whether the IPs – intended parents are



going to be paying the insurance premiums or if the surrogate happens to have insurance that covers it, at minimum they're going to be paying copays out of pocket cost deductibles. Other insurance terms will be life insurance. Intended parents have to take out a life insurance policy on the surrogate. What they're doing – pregnancy by itself comes with the ultimate risk and so there is a life insurance policy that's taken out for the benefit of their family that the intended parents will pay that premium. There's even language in the contract that talks about breast milk and whether the surrogate will provide breast milk after the delivery and for how long. So sometimes it's not clear whether there is an agreement to that and there'll be language that says something like if the intended parents request and if the surrogate agrees, then they will do that. I like to recommend in the whole idea of the contract again, is that the intent is laid out ahead of time. So the more we can have these discussions beforehand, the more, there's no surprises that come later. So that's some of the standard terms and benefits that come into contract.

Emily: Yeah, great. Thank you.

Greggory M Field: I'll also mention, just real quick, sorry to interrupt, there's also a terms for if a surrogate goes on bed rest or restricted activity, those are some things intended parents have to consider and surrogate and her family have to consider those risks. So there are a things like lost wages, childcare, housekeeping costs often while somebody's on restricted activity or bed rest. Of course everybody on both sides wants the best for the health of the surrogate first and the fetus or fetuses too.

Emily: Good point. I'm glad you shared that with everybody. So I know Gregg, I know you represent intended parents want. I also know you also represent surrogates and donors – embryo donors. So from your various conflict you've done when you've been either representing either party, do you see some main questions that let's say surrogates ask you during legal consult or that intended parents seem to be asking you when working on the contract together?

Greggory M Field: Yes. Well, generally, the first thing I would say like if I'm representing a surrogate, they say they're just so happy to be helping someone who couldn't form a family themselves. They just couldn't imagine. So that's the one of the first things that as surrogate might say, but one really nice and curious question I get from both sides is what's the delivery? Like how does that look and intended parents gonna say, where do we go in the delivery room? What's that like? The surrogate will say, where do the intended parents go in the delivery room, what's that like? And both are awkwardly excited for that time, that time period when it comes. So we discuss that. That's really not a legal issue, although in the contract there is some terms that say that the intended parents are allowed to be part of all exams and be present in the delivery room provided that their medical considerations allow and with respect to her privacy.

Emily: Before you go on, I just want to make a comment that you are the attorney being asked that question. So I think, it's about delivery and I also think maybe your clients also ask you too because you have been through it, and you've been in the delivery room watching our daughter be born. But I also think Dr Aimee talked a lot about some of her non medical hat she wears and you as an attorney, you get a lot of non legal questions. So, it's just shows how all of us and professionals, really being a support all of our clients and really being, you know, counselors and really help everybody. So I just think...

Greggory M Field: That's very true. Yeah.

Emily: Okay, great. Is there anything else you want to share about that?

Greggory M Field: Yeah, yeah. What I was going to say is there's another more serious question that both sides ask. It has minimal risk, but both sides have concern and that really is what if the other side doesn't perform on the contract on what they were expected to do. A surrogate will ask, what if the IPs don't show up for the baby? The intended parents will ask, what if the surrogate wants to keep the baby? And these are super common questions that have minimal risk to them. It's extremely rare and thank goodness I have never seen that. To the intended parents, you would say if a surrogate wanted to have another baby, they would include, they could have their own, they don't want yours, they have come forward to help you. To the



surrogate, the intended parents have put so much emotional time and money to form their family, they're going to show up. And if for some reason, some sad reason that the baby would go up for adoption. And with other terms, let me just take a moment. There's the whole idea of what if something goes wrong, that's really what each side are asking. What if there's an issue that arises? And so the real thing to emphasize here is that's why it's important to make sure you have an awesome team around you. You want the support of a good agency, a good case manager, a good doctor, a good lawyer, a team that will support you, whether you're the intended parents, whether you are the surrogate through the whole journey. So that if any issues arise, the team can get together to help resolve the issues for both sides before they become anything substantial. That's really what I'm, what we're seeing a lot with questions is concerned about what if the other side doesn't perform and a lot, a lot of, if there are any, if any minor hiccups that come up and they can be worked out.

Emily: Great. Thank you. Okay. I have a few more questions for you too, but I'm going to jump back over to Dr Aimee. So Dr Aimee, your role in the pregnancy. so you mentioned you do the embryo transfer and then, two or so weeks after confirmation by blood tests, you're going to see them in the office for the heartbeat. Can you tell everybody, do you monitor the whole pregnancy? What's your role post embryo transfer?

Dr Aimee Eyvazzadeh: So I'm intimately involved through the first trimester and then I do a very nice hand off to the gestational carriers, OBGYN, and so I make sure the OB knows everything about the carrier and sometimes they even call them ahead of time and let them know about the family. I would say now in our area in California, most OBGYN have had experiences with surrogates and intended parents and so it's often a very positive experience. But that's one question I ask when I talked to a carrier. I say, do you know if your OBGYN has actually delivered babies with gestational carriers? Because you want to make sure that the OBGYN has a really good comfort level and the hospital also is very comfortable because you can imagine if your intended parent walking into a delivery room and all of a sudden you get all this judgment thrown at you and it's on a very special day, that's not what I want to see happen. I want to make sure that the experience is special and wonderful for everybody as much as I can the entire way through. And then after the first trimester, as you can imagine with my personality and how closely involved I am with my patients, I'm getting updates. Carriers still reach out to me and say, I just did this blood test, what do you think? But at the end of the day, it's really the OBGYN who's monitoring everything and making sure everything is going really, really well. And the parents sometimes reach out to me, you know, as the carriers on their way to the hospital. Everyone will say hi and I'll be updated. But from a medical standpoint, the handoff occurs after the first trimester.

Emily: Yeah. That's so nice that you really try to make that transition. I know, when I, when that was happening to us, I wanted our fertility doctor to monitor the whole thing because her, we chose her, we were comfortable with her and now we're going to go to a stranger. We are still getting to know our surrogate at that point. The first trimester you're still really developing that relationship and trust and rapport with her. And now you're going to go to somebody new in a new city, sometimes intended parents can't be at all those medical appointments so you can Skype or Facetime in. So I think it's really nice that you're there and have support. So thank you for sharing that with everybody. Now I have one final question for you. And then Gregg, I'm going to come back to you. So you touched on this very briefly a little bit, but I want to elaborate on it. Another huge, huge, huge question that I'm sure you get asked, I hear all the time, Gregg, I know you hear all the time. It's intended parents has mostly most of the time been on a really tough journey to this point. And surrogacy is the next option. And they want twins. They think, I, I can't afford to do surrogacy again. I just want 2 kids. I want to do done. So I would love if you could just talk a little bit about, what are some of your success rates with single embryo transfers? What are the risks associated with a two embryo transfer and a twin pregnancy?

Dr Aimee Eyvazzadeh: So it does sound nice to be two and done, have kids with, especially with the high cost that's associated with surrogacy. However, there's a high cost when it doesn't go well and so when I make my decision to transfer, the decision when it comes to the number of embryos that we transfer is related to how many I think will give the family the highest chance to have a single pregnancy. And so sometimes that is two embryos given the strength of the embryo, the appearance, the quality, but most of the



time now because we're taking embryos to day five and we're doing genetic testing, most of my transfers are single embryo transfers and the success rate is just as good as two. But when you put in two you are giving someone an over 50% chance of having twins. So the risk of twins is related to the risk of prematurity. So babies who are smaller have smaller brains and they have a higher risk of developmental delay and issues like cerebral palsy, eating problems, breathing problems, vision problems. So there's a great article and it was published in January 2017 in the New York post. I don't send it to people to scare them and the author is Jane Ridley and the title of the article is I regret having IVF and as an IVF doctor is like, why would I ever send anyone this article? She talks about how she regrets having twins and the reason is that she had complications and she doesn't feel like people actually told her what the risks were before she did it. So I feel like if I have a patient that still really, really wants twin, I can tell you 95% of the time after I share this article with them, they say, oh, now I know what you mean. Because when you see twins out there, what do you see? They're out in the stores, they are at schools. You only see the ones that are home and not doing well and not. But as a fertility doctor, I know that they're there because they've been patients of mine. So I've had patients lose twins at 18 weeks. I've had patients lose twins at 23 weeks. I don't want that to happen to any family of mine. So again, whatever I can do to educate my patients, make sure they understand the risk and at the end of the day if they still really want twins and as the carrier really wants to transfer to, I will do it because they're the owners of this, of the embryos. And if the carriers on board understand all the risks I will transfer too. But I, I strongly encourage one.

Emily: Yeah, I think that article, you know, definitely, a great resource and I think the other thing too that I like to share with people is when your cert, let's say for, we're in California, so let's say you intended parent live in Los Angeles, but your surrogate, let's say she lives in Sacramento. Well, if for some reason, you have twins with saying the baby comes early and the baby or babies I should say happy to be in the NICU. Well, you have to kind of uproot your life and go live in Sacramento near the hospital or in the hospital until the babies get released. So it's just something to think about. We've definitely seen surrogates carry twins full term, but I know now in the industry single embryo transfer is what's happening and so I of course always like to remind people that you're going to have to go where your surrogate is and go to that hospital there and take off work and everything else that comes with that. And then of course, raising those babies. So thank you so much for all of that wonderful information. I know that there will be an opportunity at the end for some questions and some comments from you, but right now I'm going to jump over to you, Gregg, I have some final questions for you for today.

Greggory M Field: Ready.

Emily: So you are ready. Alright. So when you are doing the contracts, whatever side you're, you're representing have you ever seen the match fall apart during the legal process?

Greggory M Field: It's rare, but yes, I have and it fell apart a lot. So I told you that the idea of the contract is to express the intent and most of the time in the matching process and the agency is looking to match an intended parents and their beliefs with a surrogate and their beliefs. And so for example, Dr Aimee was just talking about matching an intended parent that may want one or two with a surrogate willing to transfer one or transfer two. Likewise the match it's important that everybody's on the same page with regard to abortion, termination issues and there's language that is on the full range of the spectrum that goes into a contract. I've seen language that says surrogate will agree to abort for any reason that the intended parents decide, so the most liberal possible and others that will say, we'll not abort at all unless the gestational carriers life is at issue. Often you'll see language that will say most commonly that the surrogate will abort in the event that the child is genetically, physically or chromosomally abnormal and the decision is up to the intended parents and the surrogate will agree with that decision. Most of the time I have a, if I'm representing a surrogate, the surrogate will say, look, I'm open to that and it's the intended parents baby, so it's the intended parent's decision. But I had circumstances before where the intended parents were not on the same page of this as the surrogate and so in that you can't move forward this, that's a critical piece of a contract to be on the same page on, not just the but do you agree on how much you're paying in maternity clothing, but a serious issue like this, there's no judgment on where you fall in the issue. The only concern that I have is that everybody's on that same page. So that's a real big piece of a contract that we go over.



And in a rare circumstance, yes, I have seen a contract fall apart in that area.

Emily: Yeah. Thanks for going over that with everybody. And again, just making sure everybody's on the right page and that all parties, intended parents and surrogates, surrogate's partner are very honest about the beliefs, especially with abortion and reduction and in working with their agency and getting matched that everybody's upfront about that so that the right match does happen. Okay. Now I just have one final question for you. So I know that I said to you when you represented intended parents or when you represented surrogates, can the same attorney represent both sides? Like do you represent both sides or how does that work?

Greggory M Field: No, not at the same time. I do represent intended parents and I do represent surrogates and I do represent egg donors, but no, not at the same time, in the same contract. Each party to a contract has to have their own independent attorneys. Even in the situations where you might have a family member that you're working with, intended parents are husband and let's say husband and wife and they're using sisters, one of their sisters to be surrogate. And even in that situation, it's especially in that situation, it's important that each side has their own attorney. There are, when it comes to a relationship, there's always, we always want to make sure that the intent is the same and we want to make sure nobody's being taken advantage of, for both sides. So intended parents will have their own independent attorney, a surrogate will have their own independent attorney, although the intended parents will be paying for the surrogates attorney's fee. So with that being said, there is a little bit of a conflict that the surrogate has to waive because their attorney is being paid by the person that is, they're entering into a contract with. But in that situation, the surrogate's attorney doesn't represent or have any obligations to the intended parents. They're being paid through an escrow account. They don't communicate with the intended parent, they don't represent the intended parents. They are solely there to represent the surrogate. So in, any one given contract, there are at least two attorneys and I say at least because sometimes internationally you need to bring in a third to help with international laws.

Emily: So can any attorney represent intended parents or represent surrogates?

Greggory M Field: Great question. So by law I guess you could, but that is not a good idea. You wouldn't use a real estate attorney to represent you in a criminal matter. So in that case, in this case, you wouldn't, you would want to make sure that you're using an attorney that has experience in assisted reproductive technology law, ART law to handle your contracts and handle your court documents. It's very important. There are a lot of terms and you don't want a business litigating attorney making certain determinations on the terms of your contract.

Emily: All right, good point. Coming down for our last final moments. So I want to turn it back over to Shweta to see what final questions you have for everybody today.

Shweta: Right. Thank you. Thank you so much Emily. And it was a nice listening to all the information that was shared what Dr Aimee and Mr Field just shared. Mr Field, I have one question for you. So are these laws very different when we are talking about a traditional surrogacy as compared to commercial surrogacy?

Greggory M Field: Yes. So when you're saying traditional surrogacy, you're saying a situation where the surrogate is actually the egg is coming from that person. Correct. So we're speaking the same. So traditional surrogacy is much more rare now as opposed to gestational surrogacy. There are, the laws are similar. They're still going to enter into a contract and they're still going to go through the court document.

Shweta: Yeah, I guess I have to reframe my question. I have talking about commercial surrogacy versus the traditional surrogacy. So the commercial surrogacy is where we go through an agency to get a surrogate and traditional what I was saying about was like when we get, for example maybe my sister could be a surrogate for me so that, that would be traditional surrogacy.

Greggory M Field: Oh, I see, I see. So there's some different terms and thank you for clarifying. So



sometimes traditional surrogacy in the past was where the surrogate was essentially the egg donor also. But what you are saying is traditional surrogacy where you go through an agency, right. And the agency matches the surrogate and the intended parents. And then you're saying is that, is that what you're saying? Correct.

Shweta: Yes, yes, yes. Go ahead please.

Greggory M Field: And then a situation where it's more, it's an independent journey. Where there's no agency, maybe you, you're being matched with a friend or relative that you have found on your own. The two differences between those two. Right.

Dr Aimee Eyvazzadeh: And I'll just jump in and I'll use the word compassionate surrogacy. So that's when it's a family member. You're not asking for financial reimbursement.

Greggory M Field: Great. That's great. And even in those circumstances the answer is yes, you still are going to go through a contract, even if it's as Dr Aimee says, compassionate where there is maybe there is no base compensation or just covering her out of pocket expenses, but you're still going to go through the contract process and the court process.

Shweta: Okay. Alright. So, I know you discussed a lot about how it is important to have a very good team of a good agency, a good lawyer and a doctor so that the contract does not fall apart and in case if it falls apart then there are the people around you to support it. So, I just wanted to know what are the tips that you would have for the intended parents and surrogates from the perspective of you have been having been gone through it yourself. So what's the advice you would give intended parents just starting the process? And the question is for you and Emily as well.

Greggory M Field: Okay. Honey, do you want to start?

Emily: Sure. I can start it off. So for intended parents, prospective intended parents who you're just starting out. I would say you probably are already doing this if you're listening today to try to learn as much as you can. And by that I mean try to find other people who have been through surrogacy. So whether that's other intended parents, I know we're really open with our story and we talk to people all the time about it. So it's really great to talk to other intended parents and it's also really nice to talk to surrogates if you're a prospective intended parent, really hear from her and her story and her side of it and why she wanted to do and what the experience was like and what her relationship was like with the intended parents and with the baby or babies. So it's really good to learn those different perspectives. I also always encourage prospective dependent parents to talk to two to three agencies. I think it's really important that, you know, if you're going to go down that route of an agency working with you and finding your surrogate and supporting you, you'll learn a lot by these conversations and you'll get the right feel for what agency is going to find you, the surrogate that fits you. And then based on, a lot of what you heard today, it's really important that you intended parents, whether you're single or married or in a committed relationship, that you really think about what you want, what kind of relationship you want. It might evolve, you might think one thing and then throughout the pregnancy it might be something completely different, but for you to think of your abortion beliefs and reduction beliefs and for you to think about, you want to be involved in the pregnancy, meaning go to appointment. So things like that I think are really important when you're first starting out. Gregg, you have anything you want to add to that?

Greggory M Field: Yeah, what I would say, those are great points. What I would say also is that for intended parents, it's a tough process because you don't have control. So the best and the one tip that I would say for intended parents is educate yourself as much as you can in the whole process. Ask the nitty gritty details of every awkward situation that you may come across. Find somebody for example, Emily, consults with people about the process and things to think about because the more an intended parent has knowledge of the process, the relationship, the appointments, the more they can release the control that they, because they don't have it. And then to surrogates recognize that the intended parents don't have a lot of control and the way that they could help, is to keep the intended parents as informed as possible, even if it's something



little that's at 9:00 at night that the baby moved oh and that's amazing,, the baby kicked, sharing that information keeps an intended parent involved, and gives them a sense of comfort in the process.

Shweta: Right. Thanks. That's a great tip. Yeah. So, Emily, this question is for you. So because most of the people who are involved in surrogacy, they have emotional issues attached to their surrogates, right? And they have questions about whether to maintain a relationship with the surrogate presidency or not. So what kind of relations do you have with your surrogate today?

Emily: That's great question. So we're actually really, really fortunate and probably on more of a extreme side of, we are very, very close with our surrogate. In fact, our families are getting together next week for the holidays and we have gifts for her kids and they have a gift for our daughter. So, we talked, we had, we get together a few times a year, after, after our doctor's appointments, I always text her with our daughter stats of height and weight and so, she's kind of like an aunt and somebody who has really, really, really loved our daughter and and I'm not threatened by that whatsoever, it's really evolved through that. So I know a lot of other people, you know, maybe just texted a few times a year to their surrogate or send some photos or some invites them to birthday party. So it really just depends, for us, we do have a very close relationship and we have pictures of our surrogate, when she was pregnant in our house and we point to her tummy and tell our daughter that she was in that tummy and Aunt Melissa's tummy. we're really open with it and she's starting to ask more questions of how she was born at three years old. So that that is for us and it's something I was open to as open to a relationship, but the need for it to be as close as it was, it's just evolved into that, I really trusted her throughout. She was really open with me, like Gregg, you were talking about that. So I think that just really helped form a really nice relationship.

Shweta: Well that's, that's great to hear and I can imagine just how soothing and calming it would be when a surrogate says to an intended parent that I'm your child's babysitter. Dr Aimee, I have one last question for you and then I'll move on to the listener's questions. So what advice would you give to the intended parents clients about surrogacy?

Dr Aimee Eyvazzadeh: Great. So I think that the field did a great job and, actually address a lot of these things already, but I think I'll just readdress them and take your time. Don't rush into it. Take your time, visit with your surrogate, get to know her, get to know her family and some of the things that I think are really important to do or ask them. Ask the surrogate if she is considering any life changes if there's going to be a job change for her or her husband. If she is, let's say single, does she plan on dating? I mean some of the things that I've seen before is for example, a surrogate gets divorced right after the transfer or a single surrogate starts dating and then moves out of state because of the new boyfriend. Surrogate becomes pregnant and quits her job and then the intended parents have to pay lost wages or something like that or some other things for everyone to know is like what's going to happen if something happens to the agency?

What is the agency filed bankruptcy? How is escrow to going to be set up? Will the surrogate bills be paid back as she's getting billed? I've seen cases where agency has gone bankrupt and then the surrogate, basically goes bankrupt too because she's left with all these hospital bills and the communication just isn't there. And so that's, I would say, those are some of the things that people may not think about. And then the other thing is, the surrogate is, giving so much of herself surrogates are heroes and angels that walk amongst us. There's about one percent of women that love being pregnant so much that they would do it for somebody else and we call those women surrogates. So I asked my family to bring her a gift, a card, flowers, make sure she knows how much she means to you, send the messages, when they come for their appointments, just say, can we go out to coffee? Can we have lunch? Bring them a small token of your appreciation. Even if it's something small, those things can go a really long way in building your relationship and making sure they know how appreciated they are. And then when it comes to learning as much as you can, some of the things I do and I want people to learn from the show as much as possible is has your carrier been screened before? Did she go through this process before? And if she did, what happened? What didn't work? Why did the contract fall apart? And I'll tell you, there's simple things that sometimes make the contracts fall apart. Like, oh the carrier wanted an extra stipend for cleaning services for a house, for her house and intended parents didn't want to pay that and then all of a sudden everything fell out of contract



after like months and months of trying to prepare the contract. So if I know those things ahead of time, well I'm going to tell you, I'm just going to tell my intended parents, look, this is something that we have to do upfront.

This is really important to her. Okay? And then if the surrogate comes to me and was a repeat in the past, I'll ask, what works for you in the relationship? What didn't, what kind of relationship did you have? Do you have now? And what would you like to see differently this time? And I definitely do my best to pass that on. And if you're listening to the show, these are the things that I want you to do as well. And the contract is so, so important. If let's say the carrier wants to travel a certain stage of pregnancy, you should always be able to refer back to the contract and say, you know what, per the contract we agreed that, after 32 weeks he went in travel or before 14 weeks you wouldn't travel. And that's that. So then there's no arguing, there's no fighting, there's no hurt feeling. Everyone's on the same page because you worked so hard in making this perfect contract for yourself. And then the last thing I'd bring up is technology. There's so much technology that goes into a pregnancy. There's amniocentesis, there's blood draws, there's dopplers now that surrogates get and do at home. They're all these ultrasounds that people can do like 3D, 4D ultrasounds at these centers in the mall. And so if let's say a surrogate is, doing something on her own and she hasn't told the intended parents, oh, I bought a doppler, now I'm doing it. And now then. Oh my god, what are you doing that makes me feel so uncomfortable? Well, I want people to have that technology conversation as well upfront. So again, feelings aren't hurt, things like that. And so that the relationship is always intact and everyone's happy.

Shweta: Great points. Thanks for this great advice. I'll just move on to couple of questions posted on our website. So the question says, what conditions do I need to meet if I want to be a surrogate? Probably you outlined it a bit, but we can go over it again.

Dr Aimee Eyvazzadeh: Okay. So as far as, basically someone who's been pregnant before, delivered a baby and has a child at home, someone with a healthy BMI or healthy weight with age over 21. And for someone who's, let's say compassionate surrogate, like a family member, a sister, a cousin or someone like that. I, am a little bit flexible on age, let's say if that individual is like 42 or 43, but in general we like to have carriers that under the age of 40, that's my preference and then no medical problems, no anxiety disorders, psychiatric issues, stable relationship, stable home life, those are the kinds of things that I look for.

Emily: All right. What about the other, state where the surrogate is? But it's something to look at like, Gregg you want to talk about ?

Greggory M Field: Certainly. Yeah. So, for, for a surrogate, you want to make sure you're in a surrogacy friendly state. So as I said before, the state laws differ throughout the country, and depending upon where you are will make a difference in the compensation and the process.

Emily: You can just kind of Google that and find surrogacy laws, right. It's, it's pretty easy to find and there's some good math that show you where it's legal in the states and around the world.

Shweta: Okay. Thanks for the answers. So the second question says do all embryos have to be PGD tested for use in surrogacy? I guess this is for you Dr Aimee.

Dr Aimee Eyvazzadeh: No, not at all. I mean, when you look at a diamond for those people who don't know what PGD testing is, when you look at a diamond and you see how beautiful it is on the outside, doesn't mean that an embryo like it looks beautiful on the outside is beautiful on the inside, the way it is designed, you take a microscope, look at a diamond and be like, oh, you're so pretty, but embryos aren't like that. So PGD testing or PGS testing also known as CCS or complete chromosome screening isn't perfect. It's a murky crystal ball. It's as close to a crystal ball as we can get. Would I like my families to consider PGS before transferring to a surrogate?

Absolutely. Because this can reduce the risk of miscarriage and increase the chances of implantation failure.



The people who are considering becoming a surrogate, they shouldn't feel like they have to transfer embryos that are genetically screened and intended parents shouldn't feel like they have to screen their embryos there ahead of time, but I can tell you one thing that surrogates are people that become surrogates because they haven't had problems with miscarriages and most surrogates haven't even had one miscarriage in their life and now they're dealing with someone else's DNA and for the first time in their life they might have a miscarriage and it's heartbreaking to me. And that's one thing that I also like talking about in advance with families is that if your surrogate miscarried, it's really important that we all support each other. But no matter what we go through, we're going through it together because sometimes you hear stories of a surrogate miscarrying and the intended parents basically don't reach out to her, don't say I'm sorry, there's no shared compassion there. And those are the things that I also liked to avoid. So doing PGS testing could potentially decreased risk of miscarriage, but because we're only looking at chromosomes and so much, so many other things go into a pregnancy growing to full term. Certainly miscarriages can still happen.

Shweta: Absolutely, so the last question says I would like to learn about the cost involved in surrogacy. Does the cost for surrogacy remain same if I am able to use my own egg vs using a donor egg? So I guess, Mr. Fields you could answer this question.

Greggory M Field: Sure. So the last part there about using a donor egg, if you use your own egg then you don't have the costs of using a donor egg because if you have a donor egg then you're going to have another contract and that means you're going to have two attorneys and you're going to have the cost of paying for the egg donor and the IVF cycle to retrieve those eggs. So that's where your costs will go up there. With regard to a cost involved, legal costs for a intended parents attorney could be \$8,000 to \$12,000, sometimes less and surrogate's attorney , around \$1,500 and that includes the court documents. And then all the different aspects that I mentioned that go into a contract, all the different benefits, the base fee, the maternity clothing, non-accountable allowance, those all vary. Sometimes depending upon the agency, if it's an independent journey, some, again, depending upon whether it's compassionate, altruistic or whether it's compensated all those terms vary. Emily or I would be happy to go through those different ranges with the audience. You can email her or I emily@fieldfertility.com or Gregg with two g's gregg@fieldfertility.com and we can go through all those things and also put you in touch with some awesome agencies to interview to see what their benefit offerings are.

Emily: So just to add to that you have an agency fee, in addition to everything that the surrogate gets in the legal fees, like Gregg said, then there's the medical fees and Dr Aimee, maybe you can give you that range, once you've created your embryos, right? What the first trimester is and then there's a mental health expert, paying for that in support of the surrogate and you even throughout it, and if your surrogate isn't local, thinking about if you have to fly to her appointments or take time off work. So those are other costs to think about, the escrow management companies because they charge like a \$1000 or \$1,500 to manage all the money that gets dispersed. So, hopefully all the listeners are sitting down, but typically surrogacy can be, you know, 100, 0000 to \$150,000 ish. It's really just depends on a lot of stuff. And that's also sort of looking at once you have your embryo day versus getting the egg donor, then there's that additional cost on there. Dr Aimee, is there anything on that, medical side costwise you can add?

Dr Aimee Eyvazzadeh : I mean I think with how insurance is changing so rapidly right before our very eyes is really doing. And I know you guys recommend this as well is ART risk is doing a second audit and making sure that all insurances in place with life insurance and health insurance, that you don't need an extra policy to cover other things because no one wants surprise bills or to find out they actually don't have the coverage that they thought. And so that's one thing that I recommend to families so they do that with the carriers plan. And then if the carrier doesn't have the coverage that we thought she had to get another policy.

Greggory M Field: You could end up, intended parents could end up with a massive bill insurance doesn't cover. So that also varies to the listener's question that varies in the cost for you. If you were going to pay for an insurance policy for the surrogate versus, which, \$500 a month or a surrogate has her own insurance. Or if then you end up getting stuck as Dr Aimee just said with a surrogacy friendly policy that could cost you



\$50,000 by itself. So these are, that's a great point. Dr.

Shweta: Sure. Well thank you so much for your time. I think we have reached the end of our scheduled time so we'll have to wrap up now. Thank you so much Dr Aimee and Mr. Field and Emily for a wonderful and very informative discussion today. It was a pleasure having you with us today and I hope this discussion would serve as a good reference for many who are searching out for authentic information on surrogacy. Audience I thank you for your support and we look forward to having you all join us for our upcoming fertility talks in 2018 where we plan to cover various topics like hi-tech fertility, cervical cancers, toxins, miscarriages, acupuncture, and meditation in infertility. If you would like to propose it a fertility talk or if you'd like to be on a fertility talk, please email me at shweta@trialx.com. And for more information on upcoming talks, please visit www.curetalks.com. And the link for today's show will be sent via email to all the participants. So until the next show, thank you very much everyone.

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