

Va. fertility clinic rejects gay couple

Strict rules govern sperm donations from gay men

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Strict government guidelines regarding sperm donation are making it increasingly difficult for gay couples to start their own families, critics say.

Bruce Riley and Alex Young discovered the new rules after they were accepted, and later rejected in the fall of 2005 by the Genetics & IVF Institute, a fertility clinic in Fairfax, Va.

"A friend of ours went through them without any problems and had two children," said Young. "However, when we applied they rejected us. According to them, the state of Virginia changed the laws banning same-sex couples from using such clinics. Because of them, we lost \$13,000 in legal fees with a surrogacy agency."

Young, 34, an American Sign Language interpreter, and Riley, 37, an interpreter for the deaf with Galaudet University, live in Annapolis, Md., and have been together for 12 years. They started thinking seriously about becoming parents together five years ago. Young said they considered adopting a deaf child from another country, but found out that many countries prohibit adoptions by same-sex couples.

"We want to have kids," said Riley. "It's the right time and we want to give a child a good, loving and stable home. It's part of the natural progression in our lives."

Riley said he called Genetics and IVF Institute because he knew of other couples, one that was in their second trimester, who had good experiences with the clinic. He said they were told to go ahead with the legal paperwork, find a surrogate and call when they were ready to proceed.

"We called back and were told the laws had changed," said Riley. "But that we should be able to be grandfathered in."

Two weeks later, after they mortgaged their house to put \$13,000 down with a surrogate agency in Indiana, they called the clinic back to schedule an appointment. The agency located a surrogate in Virginia who was willing to have their baby, and they were ready to proceed. That is when they found out they were turned down.

"We felt helpless," said Young. "We really wanted a child. We also felt sick to our stomachs because we lost the deposit with the surrogate agency. Even though we had the option of going to California, we couldn't really afford to fly back and forth."

Discouraged and out of money, the couple abandoned their plan to start a family. After talking about their plight with several friends, a 32-year-old childhood friend of Young's living in Seattle volunteered to carry a child for the couple.

Va. law criticized

Sperm donation has become a complicated subject for gay couples in the past few years. Paul

Richards, a public affairs specialist with the FDA, said the federal regulations regarding sperm donation went into effect in May 2005. Non-direct donors are men who donate to a sperm bank anonymously. Direct donors are men who donate sperm for the purpose of inseminating a consenting surrogate. Under FDA guidelines, all clinics are required to test all donor sperm for HIV, hepatitis B and C and other diseases. Donor sperm from gay men is frozen and quarantined for six months and then retested. If it is disease-free, the sperm may be used for artificial insemination.

“Currently men who have had sex with men since 1977 are permanently deferred from blood donation,” said Richards. “For tissue deferral [including sperm] it is five years.”

Dr. William Jaeger, vice president of the Genetics and IVF Institute’s Cryobank, said under Virginia law the regulations are even more strict. He said that under state law, men who have had sex with other men in the preceding five years are excluded from ever being direct donors. He said the Genetics and IVF Institute changed its policy regarding sperm donation by gay men to comply with federal and state regulations in November 2004. He also acknowledged that because of the tighter state regulations, gay couples such as Riley and Young are unfairly left out in the cold.

“The law doesn’t make any sense,” he said. “It doesn’t fit with reality. If you do sufficient HIV, hepatitis and infectious disease testing, I’m not sure what the concern would be. We quarantine sperm for six months and retest the donors. I’m not sure what the motivation is, but we have to comply with state law.”

According to a report on gay parenting by the National Gay & Lesbian Task Force, no state denies gay and lesbian couples access to fertility clinics, however, individual clinics may. Surrogacy arrangements are legal in Maryland, but are illegal in the District of Columbia. Virginia prohibits payment of surrogates, and it is illegal to pay a lawyer or agency to find a surrogate.

After all of the legal and medical wrangling, they decided to inseminate the old-fashioned way, with a turkey baster. Riley said they inseminated last weekend and are eagerly awaiting the results.

“We thought we had to make it all legal to make sure the surrogate wouldn’t rescind her offer,” said Riley. “To heck with all the checks and balances, we are just going to do what works for us. We all looked at each other and said, ‘It’s a surreal experience, but we’re united in our role to have a beautiful child.’”