

CODE OF ETHICS
AMERICAN ACADEMY OF ASSISTED REPRODUCTIVE
TECHNOLOGY ATTORNEYS

In order to further the cause of ethical assisted reproductive technology law practice, the Fellows of the American Academy of Adoption Attorneys (AAAA) hereby make and establish this CODE OF ETHICS for the American Academy of Assisted Reproductive Technology Attorneys (AAARTA). Each member of AAARTA agrees as follows:

WHEREAS, for purposes of interpreting this document, member refers to a Fellow of AAARTA, client refers to one or more clients, donor refers to one or more gamete or embryo donors, carrier refers to a traditional surrogate or a gestational carrier, and compensation refers to payments received for services rendered or expense reimbursement.

1. A member shall be duly licensed to practice law in each state in which the member practices, shall fully comply with the Ethical Rules, Disciplinary Rules, Ethical Canons, or other Rules of Professional Conduct in effect in each state in which the member practices, and shall maintain the highest standards of professional and ethical conduct. A member shall not engage in activities which bring discredit upon AAAA or AAARTA .

2. (a) A member shall ensure that the member's client is aware of his or her legal rights and obligations, and that all parties to the assisted reproduction arrangement are aware of their right to separate legal counsel.

(b) Upon being retained, the member shall advise the member's client to seek medical advice regarding medical risks and implications of the assisted reproductive technology arrangement and that such implications are not within the knowledge of the member. In the event a member knows that any party to the assisted reproductive technology arrangement is not represented by a separate attorney, and the party is known to the member, the member shall promptly advise the unrepresented party of the party's right to retain separate counsel and to seek medical advice regarding the medical implications of the assisted reproductive technology arrangement.

(c) A member may inform the member's client as to the member's understanding of the laws of a jurisdiction in which the member is not licensed to practice law, provided that the member discloses to the client that the member is not licensed to practice in that jurisdiction and advises the client of the benefit of obtaining advice from an attorney who is licensed in that jurisdiction.

(d) A member shall ensure that an assisted reproduction agreement shall be drafted or reviewed by an attorney licensed to practice in each jurisdiction where the agreement is likely to be interpreted, to ensure compliance with applicable state law.

3. A member shall not represent multiple parties in the drafting and negotiation of an assisted reproduction arrangement (including, but not limited to, the intended parent(s), the donor(s), and the carrier). Notwithstanding this prohibition, a member may represent multiple parties within only one of the following categories: 1) both intended parents; 2), any donor and his or her spouse or partner; or 3) the carrier and her spouse or partner. Furthermore, a member may represent a coordinating program or a reproductive medical clinic involved in the agreement and any one or more of the persons within only one of the categories listed in 1) through 3) above. In all cases of multiple party representation as set forth above, the member shall disclose fully, in writing, the potential conflict raised by the multiple party representation and obtain the written consent of the member's multiple clients.

4. A member shall actively discourage fraud or misrepresentation, shall not engage in such conduct, shall not knowingly make a false statement as it relates to the member's representation, and shall take all reasonable measures consistent with the confidentiality of the attorney/client relationship to prevent fraud or misrepresentation, withdrawing from representation where necessary to avoid participation in any such conduct.

5. A member shall ensure that the member's client is aware of any laws in the parties' jurisdiction(s) governing compensation of any party to the assisted reproduction arrangement.

6. A member shall inform the member's client, at the time the member accepts employment, of the scope and terms of the member's services and the fees to be charged for these services, which shall include providing the client with a written fee agreement.

7. A member shall not enter into an agreement for, charge, or collect an illegal or unconscionable fee. Advanced fees collected by a member shall be returned to the member's client if not commensurate with the services that have been provided by the member. In determining whether a fee is

unconscionable, the factors to be considered shall include, but not be limited to, the following:

(a) The amount of the fee in proportion to the value of the services performed;

(b) The novelty and difficulty of the questions involved and the skill requisite to perform the legal services properly;

(c) The time limitations imposed by the client or by the circumstances;

(d) The time and labor required; and

(e) The experience, reputation and ability of the member performing the services.

8. A member shall not possess a financial stake in the success of any assisted reproduction arrangement in which the member is retained as counsel for any party. A member shall be considered to have a financial stake in an assisted reproduction arrangement if the member enters into a fee agreement by which the member is to receive a greater fee for a successful assisted reproduction arrangement than is warranted based upon the reasonable value of the services performed by the member or if the member enters into a fee agreement in which the member is contractually entitled to a lesser fee than the reasonable value of the services performed by the member if the attempted assisted reproduction arrangement is unsuccessful.

9. A member shall disburse client trust funds only for those purposes specifically authorized by the member's client, and the member shall not exercise independent judgment or discretion over trust fund disbursements, unless the member's client has specifically authorized the exercise and scope of such discretion. A member shall promptly account for all client funds held by the member, upon request by the member's client, and shall promptly reimburse to the member's client all client funds upon request by the member's client or upon completion of the case.

10. A member shall not make false or misleading claims in advertisements. A member shall not advertise in a manner which is unprofessional or which brings the assisted reproductive technology bar into disrepute. A member shall comply with those guidelines regarding advertising as, from time to time, may be established by AAARTA, AAAA, or by the AAAA Board of Trustees.

11. A member shall extend every possible professional courtesy to other attorneys and to the clients of other attorneys.

12. A member shall not enter into any agreement with any person which would have the effect of restricting the ability of the member, or the ability of counsel for any party, to exercise independent professional judgment on behalf of, or to provide necessary, complete, and competent legal services to, his or her client. However, a member may accept an engagement that restricts the representation of counsel to limited issues, provided the restrictions are set forth in the written agreement between the member and his or her client.

13. A member may, when appropriate and/or when requested by a client, refer parties to competent and professional medical providers, legal counsel, mental health providers, or coordinating programs. A member shall avoid any appearance of impropriety and shall advise the parties of any family or professional relationship between the member and any other professional to whom the member may refer a party, including a physician, clinic, hospital, mental health provider or coordinating program. A member shall disclose fully to the parties any financial benefit received by the member from any person or entity to whom a party may be referred by a member or any financial benefit bestowed by the member upon any other person or entity for referring a party to the member.

14. A member shall be under a duty to investigate material representations made to the member by any party to the assisted reproductive technology arrangement, if the member believes or has reason to believe that such representation is false.

15. Any changes or amendments to the AAARTA Code of Ethics shall be made in the same manner as set forth in Article XI of the Bylaws of the American Academy of Adoption Attorneys.