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Surrogate mother's nightmare

September 9, 2011
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CYNTHIA VUKETS

STAFF REPORTER

Cathleen Hachey's first try as a surrogate mother took a heartbreaking turn when she was abandoned via text message last spring, 27 weeks into the pregnancy she'd initiated to help another couple start a family.

Cathleen Hachey, 20, poses with the twin boy and girl she delivered June 28. After agreeing to be a surrogate mother for an infertile British couple, Hachey was left with the babies when they split up...

The young New Brunswick stay-at-home mom was carrying twins for a British couple. But three months before Hachey's due date, the couple declared their marriage had ended and they would not be coming for the babies.

Hachey, 20, who was already the mother of a 1- and 2-year-old, delivered the twins — a boy and a girl — on June 28.

She was able to find the twins an adoptive home, but experts in the field say the episode is a lesson on the need for better safeguards for both surrogate mothers and the intended parents.

Without a lawyer or a fertility doctor to advise her, Hachey was left vulnerable and outside Canada's fertility laws.

"Here's a lovely, trusting young woman who should have taken care of herself," says Sherry Levitan, a Toronto-based fertility lawyer. "The law is there for a reason."

Hachey, who lives in Bathurst, N.B., tried to do what experts say all surrogate mothers should do before she agreed to carry a child for the couple in Hertfordshire, England, whom she met through the website Surrogate Mothers Online.

She spent about six months getting to know them, speaking with them daily by phone. She met the pair when

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they flew to New Brunswick in November. The three signed a surrogacy contract prepared by the couple that declared them the child's legal parents and granted Hachey \$200 per month for expenses related to her pregnancy.

The trio decided Hachey would be a "traditional" surrogate: she would use her own egg and the husband's sperm to conceive the child because the wife suffered from polycystic ovarian syndrome and was unable to conceive or carry a baby.

Surrogacy advocates frown upon this approach, and few fertility clinics will agree to inseminate women who choose it. So Hachey performed an "at home" insemination using a medical syringe and semen from a cup.

"Traditional surrogacy is too fraught with issues," says Toronto fertility lawyer Nancy Lam. The child is genetically connected to the surrogate, unlike in a much more common "gestational" surrogacy, in which the surrogate mother carries a baby conceived with a donated egg and has no genetic connection to the child she delivers.

The traditional surrogacy complicated Hachey's situation, leaving her even more vulnerable when the couple backed out 27 weeks into her pregnancy.

The intended mother sent Hachey a text message stating the couple had separated and she wouldn't be taking the unborn boy and girl because she felt that as a single mother she couldn't care for twins.

"It said she mentally couldn't handle herself right now," Hachey recalls, "so she didn't think she can handle two other human beings."

The expectant mother was stunned: "They were my biological children so they were my biological problem."

With the help of a friend, Hachey did find a Nova Scotia couple who had been waiting several years to adopt and were overjoyed to take the twins.

"It was hard," she says. "If I was in a better position, I would have kept them."

But she had to care for her two children alone because her fiancé left 18 weeks into her surrogate pregnancy. Faced with the prospect of sole breadwinner for a family of four, he said he couldn't cope with the financial stress. They have since reunited.

The *Star* was not able to reach the intended parents in England.

Canada's Assisted Human Reproduction Act of 2004 sets out strict guidelines for surrogacy. It is illegal to offer to pay a surrogate or for donated eggs, sperm or embryos. It is also illegal to accept payment for arranging a surrogacy. The penalty is a maximum fine of \$500,000, 10 years in jail or both. As well, surrogates must be 21 or older.

Levitan says a fertility doctor — had Hachey consulted one — would have recommended that she wait until she turned 21 to become a surrogate.

Assisted Human Reproduction Canada (AHRC), the federal body in charge of Canada's fertility laws, has received 20 complaints since it was formed in 2004, mainly over payment for surrogacy or the purchase of eggs or sperm.

"Most such issues are resolved through outreach and cooperation at the initial stage of its review," says AHRC spokeswoman Yvette Lebrun-Campbell. "Four allegations have involved the police, and no charges have been laid to date."

When there is a complaint, the agency will review it and try to resolve the issue without involving the police.

"When all appropriate efforts are unsuccessful, the matter may be referred to a law enforcement agency, including the RCMP, for criminal investigation," says Lebrun-Campbell. "Or AHRC may notify any interested authority, such as a disciplinary body, where there are reasonable grounds to believe the person may have acted in breach of any professional code of conduct."

After the Assisted Human Reproduction Act was passed seven years ago, Quebec challenged Ottawa's right to control all areas of reproductive assistance and technology. It launched a constitutional challenge, arguing that parts of the act fall within provincial jurisdiction and should not be controlled by the federal government.

Last December, the federal Supreme Court ruled that provinces do have exclusive authority to regulate fertility clinics, license doctors, reimburse sperm and egg donors for their expenses, and decide how many embryos to implant. The federal government, however, still has power to ban paid surrogacy, the use of underage donors and the commercial trade of eggs, sperm and embryos.

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Alister, 4, managed to get away with not recycling his 3D glasses after seeing a movie last week. He popped out the

The court's ruling means the federal government is unable to license fertility doctors, explains Levitan, leaving intended parents and surrogate mothers largely dependent on lawyers to ensure they stay within fertility regulations.

"The problem is accountability," she says. "It is not that easy for the agency to ensure compliance."

Hachey did not have a lawyer. The contract, drawn up by the couple, had nothing in it to protect her in the event of the couple separating.

She won't let that happen again. "I'll have my own lawyer. I'll have a lot of stipulations in the contract to protect myself," she says.

She plans to start another surrogate pregnancy in January.

"If I could, I would do this as a lifelong job," she says. "For people who need traditional surrogates, they've accepted that they can never have a baby. This is their last hope. Those are the people that I want to help."

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lenses and has since been wearing them as a fashion accessory/disguise. This morning he headed off for the...

Cute kid quote of the week: Rocket Man

Alistair: "I want to go to the moon." Me: "Great idea. Do you want to be an astronaut when you grow up?" Alistair: "Yes. I just need rocket-ship lessons." Getty Images


Getting organized to welcome the school year

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