



## Gestational Surrogacy Program License - Required Documents – Guidance/Details

The following describes the details to be included in documents required for Surrogacy Program license applications. For any information provided, please clearly mark material that the applicant believes is proprietary information, which, if disclosed, would cause substantial injury to the competitive position of the Program:

1. **Owner, Executive Officer Information and Chief Operating Officer Document** -- Please provide the following information for the individual functioning as the chief executive officer, the individual functioning as the chief operating officer, and for each of the owners:
  - a. The true full legal name, date of birth, driver license number, social security or tax identification number, and home address;
  - b. Degrees, certifications and licenses or other professional designations;
  - c. Each business or occupation engaged in during the five years immediately preceding the date of this application, including place of employment and the location thereof;
  - d. Allegations of malpractice, actions taken against the individual's license, hospital restrictions, criminal convictions, civil and bankruptcy court actions, disputes settled through arbitration or alternative dispute resolution, whether the individual is aware of being under investigation by a governmental agency, whether a criminal charge or civil or administrative action is currently pending against the individual, and termination from employment.
2. **Program's Administrative Policies and Procedures Document** – submit your Surrogacy Program's policies and procedures, that must include, but is not limited to, the following information:
  - a. Policies and procedures to ensure that surrogacy agreements meet the requirements of Article 5-C of the Family Court Act
  - b. Policies and procedures to ensure that the surrogate has given informed consent for the surrogacy and is afforded all of the rights set forth in and that all parties were provided with a copy of the Surrogates' Bill of Rights in Article 5-C of the Family Court Act at the time of the initial consultation; Policies and procedures to monitor parties' compliance with the terms of the surrogacy agreement and training materials for all surrogacy program staff.
  - c. Policies and procedures relating to the selection and evaluation of prospective surrogates and the evaluation of prospective intended parents, consistent with clinical best practices;
3. **A copy of your Program's Conflict of Interest Policy** – which prohibits at a minimum, the following:
  - a. any sort of kickback or making or receiving a referral for a fee, except for fair market value fees paid by a surrogacy program to an employee or independent contractor of the surrogacy program for promoting the surrogacy program and identifying potential surrogates;
  - b. fee-splitting;
  - c. financially benefitting from a referral, including a family member benefitting from a referral;
  - d. ordering or arranging for excessive tests, treatment, or use of treatment facilities not warranted by the condition of the patient;
  - e. making self-referrals, that is, referrals to health care providers with which the surrogacy program has financial relationships (other than financial relationships that would be

- f. commercially reasonable even if no referrals were made between the parties); and entering into an arrangement with a clinical laboratory under which the clinical laboratory does not directly bill the patient as required by Public Health Law section 586.
- 4. **Proof of the program's professional liability insurance, or other appropriate insurance coverage.**
- 5. **A copy of your Program's Informed Consent Form**, written in plain language and available in English, or the language the individual giving consent is most proficient in reading, and shall include, at a minimum, the following:
  - a. a statement that the surrogate has been informed that their name and address will be kept on file by the surrogacy program;
  - b. a statement that the surrogate has been advised of the option to voluntarily share their information with the surrogacy registry upon completion of the surrogacy agreement;
  - c. HIPAA-compliant authorization for disclosure of the surrogate's relevant medical history information to prospective intended parent(s) and their physicians, consistent with statutory requirements for the disclosure of medical information;
  - d. a statement that the surrogate has the right to terminate the surrogacy agreement prior to becoming pregnant by means of assisted reproduction pursuant to Article 5 C of the Family Court Act;
  - e. a statement regarding the surrogacy program's screening of prospective surrogates, and the criteria assessed therein; and
  - f. a copy of the Surrogates' Bill of Rights, as set forth in Article 5 C of the Family Court Act.
- 6. **A copy of the written informational material your Program provides to surrogates regarding the optional surrogacy registry** -- that demonstrates the material is written in plain language, and which shall indicate, at a minimum, the following:
  - a. participation in the surrogacy registry is voluntary and consent can be revoked;
  - b. information will be de-identified; and
  - c. the surrogacy program shall adhere to all state and federal laws regarding confidentiality of private health information, and the surrogate may pursue remedies against the surrogacy program under such laws for any illegal disclosure of their confidential health information.
- 7. **Background Investigation Report and Credit Report** -- A copy of a background investigation report from an independent licensed private investigation company that:
  - a. demonstrates that the owners of the program, the individual functioning as the chief executive officer, and the individual functioning as the chief operating officer regardless of adjudication, have never previously been convicted or found guilty of, or entered a plea of guilty or a plea of nolo contendere to any offense involving racketeering, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property; and
  - b. specifies any judgments and liens filed with the county clerk in counties where the owners of the program, the individual functioning as the chief executive officer, and the individual functioning as the chief operating officer of the program have worked and resided and all counties contiguous to those counties (within the past 10 years).
  - c. A copy of a comprehensive credit report for each owner of the program.