

# Surrogacy & Assisted Reproductive Technology

## Surrogacy Regulatory Attorneys

New York is the first state in the nation to require licensure of gestational surrogacy organizations, sometimes referred to as *matching programs*. This regulatory structure reflects New York's commitment to ensuring that surrogacy is conducted ethically, transparently, and with meaningful protections for all participants.

Gestational surrogacy organizations operating in New York must be licensed by the New York State Department of Health and are subject to ongoing oversight. Licensure is intended to safeguard:

- The health, safety, and autonomy of the surrogate
- The interests of intended parents
- The rights of egg donors, where applicable
- The welfare of children born through surrogacy agreements

In addition to licensing surrogacy organizations, New York also regulates Assisted Reproductive Technology Service Providers (ARTSPs)—including fertility clinics and medical providers that perform procedures such as in vitro fertilization (IVF) and embryo transfer as part of a surrogacy arrangement.

This dual system of oversight—regulating both matching programs and medical providers—is unique to New York and plays a critical role in promoting ethical practices, accountability, and informed consent throughout the surrogacy process.

Even within this regulated framework, independent legal counsel remains essential. Licensed agencies and medical providers do not replace the role of an attorney in ensuring that surrogacy agreements comply with New York law and that individual rights are fully protected.

### **New York is the only state regulating surrogacy agencies. We help agencies meet the moment.**

New York has created the most comprehensive regulatory framework in the country for gestational surrogacy agencies and matching programs. For agencies, that means a new reality: compliance is no longer “best practice”—it is a business requirement. Abrams Fensterman partners with agencies to build defensible operations, implement ethical standards, and document compliance in a way that stands up to scrutiny from regulators, intended parents, and industry stakeholders.

### **Why New York is different: New York's licensing, disclosure, and documentation requirements**

New York is the first—and currently the only—state to require licensure of gestational surrogacy organizations, sometimes referred to as matching programs. This licensing framework is designed to professionalize the industry and ensure that agencies are operating with clear governance, transparent processes, and proper documentation. In practice, agencies must be prepared to demonstrate that their

procedures are not only compliant in theory, but consistently followed in real-world operations—supported by written policies, standardized forms, and accurate recordkeeping.

## **Mandatory protections for surrogates and intended parents**

New York's regulatory model is centered on participant protections. The law establishes specific safeguards for gestational surrogates, including disclosure requirements, informed consent protections, insurance and reimbursement obligations, and the surrogate's right to independent legal counsel. It also provides intended parents with clear legal parentage pathways and enforceable agreements—when executed in compliance with statutory requirements. For agencies, this means that ethical practice is not merely reputational; it is foundational to legal validity and long-term sustainability.

## **Enforcement risk for non-compliance**

Because New York treats surrogacy as a regulated professional service, non-compliance carries real risk. Agencies that operate without proper licensure, insufficient documentation, or inadequate participant disclosures may face regulatory exposure, contractual disputes, reputational harm, and business disruption. Even unintentional gaps—such as inconsistent recordkeeping, unclear advertising claims, or weak conflict-of-interest protocols—can become liabilities when an arrangement is challenged or when participant concerns escalate. Proactive compliance is the strongest form of risk management in a regulated marketplace.

---

## **Who We Represent**

### **Surrogacy agencies**

We advise licensed surrogacy agencies and those preparing to become licensed, providing ongoing regulatory counsel to help leadership teams build compliant operations, maintain ethical standards, and stay ahead of evolving oversight expectations. Our goal is to help agencies operate confidently—without relying on last-minute fixes when issues arise.

### **Matching programs**

Matching programs sit at the center of sensitive decisions and communications among surrogates, intended parents, donors, clinics, and counsel. We help programs develop standardized, auditable procedures for screening, disclosures, communications, and documentation—so the matching process is both ethical and operationally sound, with clear guardrails for staff and leadership.

### **Fertility-adjacent entities**

Many businesses support surrogacy arrangements without being traditional “agencies,” including consultants, coordinators, and service providers that touch participant data, compensation structures, and clinical workflows. We counsel fertility-adjacent entities on compliance alignment and risk exposure, helping them define their role, responsibilities, and documentation practices in a way that reduces ambiguity and strengthens defensibility.

### **Agencies expanding into New York**

For agencies operating in other states, New York presents a distinct regulatory threshold. Expansion requires careful evaluation of licensing obligations, operational procedures, advertising practices, and

contract-related workflows to ensure that what worked elsewhere meets New York's expectations. We help agencies enter New York strategically—with a compliance roadmap that supports growth without triggering preventable risk.

### **How We Represent Surrogacy Agencies and ART professionals**

Abrams Fensterman serves as ongoing regulatory and compliance counsel to surrogacy agencies and matching programs operating in or entering New York. We work alongside agency leadership to interpret and implement New York surrogacy law, including the **Child-Parent Security Act**, and to translate statutory and regulatory requirements into practical, defensible operations.

Our work extends beyond drafting surrogacy agreements. We advise agencies on evolving legislation, New York State Department of Health licensing and oversight requirements, and procedural developments in Family Court that impact parentage proceedings. We help agencies build systems that support compliance, ethical governance, and long-term operational stability.

### **Services for Donor & Surrogacy Agencies**

Abrams Fensterman provides ongoing legal and regulatory counsel to donor and surrogacy agencies operating in or entering New York. Our services are designed to help agencies operate compliantly, ethically, and with confidence in a highly regulated environment.

#### **Our core services include:**

- **Regulatory & Statutory Compliance:** Advising agencies on compliance with New York surrogacy and assisted reproductive technology laws, including licensing, disclosure, and documentation requirements.
- **Contract Drafting & Review:** Drafting and reviewing agency-facing agreements to clearly define the rights, responsibilities, and expectations of all participants while aligning with statutory requirements.
- **Parentage & Legal Status Guidance:** Counseling agencies on issues relating to parentage, donor status, and third-party reproduction to ensure that agreements and processes support enforceable legal outcomes.
- **Confidentiality & Information Governance:** Developing protocols to safeguard participant confidentiality, manage sensitive information, and comply with privacy obligations under applicable law.
- **Risk Assessment & Issue Management:** Advising on non-routine or high-risk scenarios, including participant disputes, non-disclosure issues, or circumstances that require heightened legal review.
- **Monitoring Legal & Regulatory Developments:** Providing ongoing updates and strategic guidance on legislative, regulatory, and case law developments affecting donor and surrogacy agency operations.

### **How We Add Value for Donor and Surrogacy Agencies**

We help donor and surrogacy agencies operate compliantly and confidently by translating New York's complex surrogacy laws into practical policies, defensible workflows, and ethical governance structures—reducing risk while supporting long-term growth.

## Services for Doctors & IVF Clinics

Abrams Fensterman advises physicians, fertility clinics, and assisted reproductive technology providers on the legal, regulatory, and ethical considerations that arise in reproductive medicine. Our counsel is designed to protect patients, support clinical decision-making, and reduce institutional risk in an evolving legal landscape.

### Our core services include:

- **Consent Forms & Patient Documentation:** Drafting and reviewing informed consent forms and related patient-facing documents to ensure legal accuracy, clarity of intent, and alignment between medical outcomes and legal parentage.
- **ART Procedure Legal Guidance:** Advising on the legal implications of IVF, surrogacy, egg donation, sperm donation, and other assisted reproductive procedures, including participant rights, responsibilities, and risk exposure.
- **Third-Party Agreement Support:** Drafting and negotiating surrogacy, egg donation, and sperm donation agreements in coordination with treating professionals to ensure clinical practices are supported by enforceable legal frameworks.
- **Regulatory & Statutory Compliance:** Counseling clinics on compliance with New York laws governing assisted reproductive technology, including evolving statutory, regulatory, and professional standards.
- **Education & Staff Training:** Conducting legal education sessions and workshops to keep physicians, administrators, and staff informed of developments in reproductive law and best practices.
- **Ethics & Risk Management Guidance:** Advising on ethical considerations, non-routine scenarios, and sensitive decision points to ensure medical practices align with legal and professional obligations.
- **Issue Management & Dispute Readiness:** Providing guidance on managing disputes or high-risk situations involving parentage, custody, or participant disagreement, and coordinating referrals when litigation counsel is required.

## How We Add Value for Doctors & IVF Clinics

Abrams Fensterman serves as regulatory counsel to doctors and IVF clinics navigating New York's assisted reproductive technology laws. We help ensure that consent forms, clinical protocols, and third-party arrangements comply with statutory and regulatory requirements, reduce parentage and liability risk, and withstand legal scrutiny—allowing clinics to operate confidently in a highly regulated environment.

## CONTACT OUR LAW FIRM

### Speak with New York Surrogacy Regulatory Counsel

For further information about our surrogacy law group, please visit our [Surrogacy Regulatory Practice](#) guide or [contact our law firm](#) on Long Island at 516-328-2300, in Brooklyn at 718-215-5300, White Plains at 914-607-7010, Rochester at 585-218-9999 or Albany at 518-535-9477 to schedule an initial consultation.