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Lambda  
Legal

making the case for equality

November 28, 2012

VIA FACSIMILE

Jean Remsbecker  
P.O. Box 47814  
Olympia, WA 98501-7814

**Re: Comment on Department of Health Proposed Rule  
“Gender Neutralized Terms on Marriage and Divorce  
Certificates”**

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JESSE WING  
BOARD PRESIDENT

KATHLEEN TAYLOR  
EXECUTIVE DIRECTOR

Dear Ms. Remsbecker,

The ACLU of Washington Foundation and Lambda Legal Defense and Education Fund, Inc. write to comment on the Department of Health’s proposed rule entitled “Gender Neutralized Terms on Marriage and Divorce Certificates” which would amend WAC 246-491-149. While we agree with much of the proposed changes to the marriage and divorce certificates, we have two recommendations.

First, the proposed rule would add sex as a field on the marriage certificate. We recommend that the Department of Health again follow the example set by New York and make sex an optional field. The binary gender designation of male and female is problematic because it excludes individuals who do not identify solely as male or female. It also discriminates against transgender individuals who have transitioned from the sex they were assigned at birth, but who have been unable to secure identity documents consistent with their gender identity. (Some jurisdictions pose significant obstacles to transgender individuals who seek to amend their birth certificates to reflect their gender identity.) Making sex an optional field on the marriage certificate will ensure that individuals will not be forced to make a choice within this binary. It is also unlikely to have a significant effect on any data collection on marriages of same-sex couples.

Second, the proposed rule changes the terms on the marriage and divorce certificates from “bride,” “groom,” “husband,” and “wife” to “spouse A” and “spouse B.” We recommend that the Department of Health follow the example set by New York, which legalized marriage for same-sex couples on June 24, 2011 and began marrying same-sex couples on July 24, 2011 in amending Washington’s marriage and divorce certificates. New York amended its marriage certificates to list “bride/groom/spouse” to encompass all of the terms that individuals use to refer to themselves and their partners. New York similarly amended its divorce certificates to list

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“wife/husband/spouse” to achieve the same result. We recommend that the Department of Health use “bride/groom/spouse” on the marriage certificate and “wife/husband/spouse” on the divorce certificate, which will achieve the goal of making gender neutral terms available to those who prefer them.

For your reference, we have enclosed sample copies of the New York marriage and divorce certificates.

We commend the Department of Health for its efforts to amend the marriage and divorce certificates to recognize terms that same-sex couples may use to refer to themselves and would oppose any effort to make separate marriage and divorce certificates for the same-sex couples.

Sincerely,



Sarah Dunne  
Legal Director  
ACLU of Washington Foundation



Shelbi Day  
Staff Attorney  
Lambda Legal

w/ permission  
Margaret Chen

Enclosures

# STATE OF NEW YORK

## DEPARTMENT OF HEALTH

### AFFIDAVIT, LICENSE and CERTIFICATE OF MARRIAGE

STATE FILE NUMBER  
(THIS SPACE FOR STATE USE ONLY)

COUNTY \_\_\_\_\_  
 CITY/TOWN \_\_\_\_\_  
 STREET NUMBER \_\_\_\_\_  
 REGISTER NUMBER \_\_\_\_\_

SUPPLEMENTAL FILE

BRIDE/GROOM/SPOUSE	BRIDE/GROOM/SPOUSE
1. A. FULL NAME FIRST _____ MIDDLE _____ CURRENT SURNAME _____	11. A. FULL NAME FIRST _____ MIDDLE _____ CURRENT SURNAME _____
B. BIRTH NAME, IF DIFFERENT _____	B. BIRTH NAME, IF DIFFERENT _____
C. SURNAME AFTER MARRIAGE (OPTIONAL - SEE REVERSE) _____	C. SURNAME AFTER MARRIAGE (OPTIONAL - SEE REVERSE) _____
D. SOCIAL SECURITY NUMBER _____	D. SOCIAL SECURITY NUMBER _____
2. RESIDENCE A. _____ B. _____ (COUNTY) _____	12. RESIDENCE A. _____ B. _____ (COUNTY) _____
C. CHECK ONE CITY <input type="checkbox"/> TOWN <input type="checkbox"/> VILLAGE <input type="checkbox"/> AND SPECIFY _____	C. CHECK ONE CITY <input type="checkbox"/> TOWN <input type="checkbox"/> VILLAGE <input type="checkbox"/> AND SPECIFY _____
D. STREET ADDRESS _____ ZIP _____	D. STREET ADDRESS _____ ZIP _____
E. IS RESIDENCE WITHIN LIMITS OF CITY OR INCORPORATED VILLAGE? YES <input type="checkbox"/> NO <input type="checkbox"/>	E. IS RESIDENCE WITHIN LIMITS OF CITY OR INCORPORATED VILLAGE? YES <input type="checkbox"/> NO <input type="checkbox"/>
3. A. AGE _____ B. DATE OF BIRTH _____ C. SEX (OPTIONAL) _____	13. A. AGE _____ B. DATE OF BIRTH _____ C. SEX (OPTIONAL) _____
4. EMPLOYMENT _____	14. EMPLOYMENT _____
A. USUAL OCCUPATION _____	A. USUAL OCCUPATION _____
B. TYPE OF INDUSTRY OR BUSINESS _____	B. TYPE OF INDUSTRY OR BUSINESS _____
5. PLACE OF BIRTH _____ (CITY, STATE / COUNTRY, IF NOT USA)	15. PLACE OF BIRTH _____ (CITY, STATE / COUNTRY, IF NOT USA)
6. FATHER OR PARENT _____	16. FATHER OR PARENT _____
A. NAME (OR MAIDEN NAME, IF APPLICABLE) _____	A. NAME (OR MAIDEN NAME, IF APPLICABLE) _____
B. COUNTRY OF BIRTH _____	B. COUNTRY OF BIRTH _____
7. MOTHER OR PARENT _____	17. MOTHER OR PARENT _____
A. NAME (OR MAIDEN NAME, IF APPLICABLE) _____	A. NAME (OR MAIDEN NAME, IF APPLICABLE) _____
B. COUNTRY OF BIRTH _____	B. COUNTRY OF BIRTH _____
8. NUMBER OF THIS MARRIAGE _____	18. NUMBER OF THIS MARRIAGE _____
9. PREVIOUS MARRIAGES _____	19. PREVIOUS MARRIAGES _____
A. NUMBER OF PREVIOUS MARRIAGES WHICH ENDED BY _____ DEATH _____	A. NUMBER OF PREVIOUS MARRIAGES WHICH ENDED BY _____ DEATH _____
CIVIL ANNUALMENT: _____	CIVIL ANNUALMENT: _____
B. HOW DID LAST MARRIAGE END? DIVORCE <input type="checkbox"/> ANNULLMENT <input type="checkbox"/> DEATH <input type="checkbox"/>	B. HOW DID LAST MARRIAGE END? DIVORCE <input type="checkbox"/> ANNULLMENT <input type="checkbox"/> DEATH <input type="checkbox"/>
C. DATE LAST MARRIAGE ENDED? _____	C. DATE LAST MARRIAGE ENDED? _____
D. ARE ANY FORMER SPOUSE(S) ALIVE? YES <input type="checkbox"/> NO <input type="checkbox"/>	D. ARE ANY FORMER SPOUSE(S) ALIVE? YES <input type="checkbox"/> NO <input type="checkbox"/>
10. IF PREVIOUSLY DIVORCED OR ANNULLED, PROVIDE THE FOLLOWING INFORMATION DATE OF DECREE _____ PLACE ISSUED _____ AGAINST WHOM _____ SELF SPOUSE _____	20. IF PREVIOUSLY DIVORCED OR ANNULLED, PROVIDE THE FOLLOWING INFORMATION DATE OF DECREE _____ PLACE ISSUED _____ AGAINST WHOM _____ SELF SPOUSE _____
(MONTH, DAY, YEAR) (CITY/COUNTY, STATE/COUNTRY, IF NOT USA)	(MONTH, DAY, YEAR) (CITY/COUNTY, STATE/COUNTRY, IF NOT USA)
1ST _____	1ST _____
2ND _____	2ND _____
3RD _____	3RD _____
4TH _____	4TH _____
I duly swear/affirm, depose and say, that to the best of my knowledge and belief that the information I provided is true and that I declare that no legal impediment exists as to my right to enter into the marriage state.	
21. SIGNATURE _____	22. SIGNATURE _____
USE CURRENT NAME	USE CURRENT NAME
23. SUBSCRIBED AND SWORN TO/AFFIRMED BEFORE ME SIGNATURE OF TOWN OR CITY CLERK _____	23. SUBSCRIBED AND SWORN TO/AFFIRMED BEFORE ME SIGNATURE OF TOWN OR CITY CLERK _____
DATE _____	DATE _____

SPECIFY ADDRESS WHERE CERTIFICATE OF MARRIAGE REGISTRATION SHOULD BE SENT

STREET AND NUMBER CITY / TOWN / VILLAGE STATE ZIP

LOCAL INDEX NUMBER

STATE FILE NUMBER

New York State Department of Health CERTIFICATE OF DISSOLUTION OF MARRIAGE

TYPE, OR PRINT IN PERMANENT BLACK INK

4

9

11

15

23

Form sections 1A-11C, 12A-13B, 14A-14F. Includes fields for names, birth dates, residences, attorneys, and marriage details.

CONFIDENTIAL INFORMATION

24

25

QR

QS

Form sections 15-25. Includes confidential information about race, previous marriages, education, and legal grounds for decree.

NOTE: Social Security Numbers of the parties to the marriage are mandatory. They are required by New York State Public Health Law Section 4139 and 42 U.S.C. 666(a). They may be used for child support enforcement purposes.