SARAH DUNNE

LA ROND BAKER NANCY TALNER STAFF ATTORNEYS

MARGARET CHEN
FLOYD AND DELORES JONES
FAMILY FELLOW

VANESSA TORRES HERNANDEZ EQUAL JUSTICE WORKS FELLOW



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"

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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KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

November 28, 2012 Page 2

"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 Magaet Cher Staff Attorney Margaet Cher

Lambda Legal

Enclosures

STATE OF NEW YORK DEPARTMENT OF HEALTH

STATE FILE NUMBER (THIS SPACE FOR STATE USE ONLY)

COUNTY CITYTOWN RSTIBIST

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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.