

AMERICAN MEDICAL ASSOCIATION HOUSE OF DELEGATES

Resolution: 005
(I-19)

Introduced by: Medical Student Section

Subject: Removing Sex Designation from the Public Portion of the Birth Certificate

Referred to: Reference Committee on Amendments to Constitution and Bylaws
(_____, Chair)

1 Whereas, Our AMA believes that the physician's nonjudgmental recognition of patients' gender
2 identities enhances the ability to render optimal patient care (H-160.991) and opposes any
3 efforts to deny an individual's right to determine their stated sex marker or gender identity (H-
4 65.962); and

5 Whereas, The legal sex designated on the public "upper portion" of a birth certificate by a
6 physician is typically based solely on an external evaluation and if sex cannot be determined it
7 is left blank with no entry; sex is also not recorded on the private "lower portion" of the birth
8 certificate where vital medical data is recorded and reported to public health officials¹⁻³, and

10 Whereas, The certificate of live birth draws on the information contained in the medical record
11 but is solely a legal document and is not used for patient care^{3,4}; and

13 Whereas, Analysis of data from 1955-2000 found that up to 1.7% of births in countries including
14 the US, Europe, and to a lesser extent Asia and Africa, deviate in some way from binary sex
15 designation, and therefore are categorized incorrectly as male or female on their birth
16 certificate⁵; and

18 Whereas, Only 9% of transgender people who want to change the sex designation on their birth
19 certificate actually do so, and 32% of transgender people with an ID who wanted to change the
20 sex did not do so due to cost⁶⁻⁸; and

22 Whereas, The National Transgender Discrimination Survey found only 24% of transgender
23 people were able to correct the gender marker on their birth certificates, 18% were denied the
24 correction, and 53% had not attempted correction⁸; and

26 Whereas, A national survey of transgender individuals showed 32% of transgender people were
27 harassed, asked to leave an establishment, or assaulted due to presenting identification that did
28 not match their gender presentation, and 13% were denied coverage for medical services
29 considered to be gender-specific, including routine sexual or reproductive health screenings
30 such as Pap smears, prostate exams, and mammograms^{7,8}; and

32 Whereas, The process of changing the sex designation on a birth certificate is complex and
33 typically requires legal counsel, adding additional cost and a necessary education level that
34 further disenfranchises the most vulnerable of transgender and intersex people⁸; and

36 Whereas, "Sexual and gender identity are characterized by fluidity and change," and individuals
37 can and do identify as genders other than male, female, or other, and would not be aided by
38 adding a third catch-all gender or sex category to the birth certificate⁹; and

1 Whereas, The German Constitutional Court recently ruled gender markers may be omitted from
2 birth certificates in children who cannot be assigned to a binary male/female sex, and similar
3 legislation is being considered in Malta and California¹⁰; therefore be it
4

5 RESOLVED, That our American Medical Association advocate for the removal of sex as a legal
6 designation on the public portion of the birth certificate and that it be visible for medical and
7 statistical use only. (Directive to Take Action)
8

Fiscal Note:

Received: 08/28/19

References:

1. Conron, KJ et al 2014. "Sex and gender in the US health surveillance system: A call to action." *Am J Pub Health*.
2. "Hospital's and Physicians' Handbook on Birth Registration and Fetal Death Reporting" U.S. Department of Health and Human Services: Public Health Service National Center for Health Statistics. Hyattsville, Maryland October 1987. https://www.cdc.gov/nchs/data/misc/hb_birth.pdf
3. US Centers for Disease Control. "US Standard Certificate of Live Birth."
4. Brumberg, H. L., D. Dozor and S. G. Golombok (2012). "History of the birth certificate: from inception to the future of electronic data." *Journal Of Perinatology* 32: 407.
5. Blackless, M et al. 2000. "How sexually dimorphic are we? Review and synthesis." *American Journal of Human Biology*.
6. Superior Court of California, Statewide Civil Fees Schedule. No. 4: "Petition for a decree of change of name or gender"
7. Grant et al 2011 "Injustice at every turn: A report of the transgender discrimination survey. National Center for Transgender Equality and National Gay and Lesbian Task Force.
8. James, S. E., Herman, J. L., Rankin, S., Keisling, M., Mottet, L., & Anafi, M. (2016). The Report of the 2015 U.S. Transgender Survey. Washington, DC: National Center for Transgender Equality.
9. Mayer KH, Bradford JB, Makadon HJ, Stall R, Goldhamer H, Landers S. "Sexual and gender minority health: what we know and what needs to be done." *Am J Public Health*. 2008;98(6):989–995. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2377288/>
10. BVerfG, Order of the First Senate of 10 October 2017 – 1 BvR 2019/16 – paras. (1-69) http://www.bverfg.de/e/rs20171010_1bvr201916en.html

RELEVANT AMA POLICY:

Affirming the Medical Spectrum of Gender H-65.962

Our AMA opposes any efforts to deny an individual's right to determine their stated sex marker or gender identity.

Citation: Res. 005, I-18

Medical Spectrum of Gender D-295.312

Given the medical spectrum of gender identity and sex, Our AMA: (1) Will work with appropriate medical organizations and community based organizations to inform and educate the medical community and the public on the medical spectrum of gender identity; (2) Encourages members to educate state and federal policymakers and legislators on and advocate for policies addressing the medical spectrum of gender identity to ensure access to quality health care; (3) Affirms that an individual's genotypic sex, phenotypic sex, sexual orientation, gender and gender identity are not always aligned or indicative of the other, and that gender for many individuals may differ from the sex assigned at birth.

Citation: Res. 003, A-17; Modified: Res. 005, I-18

Conforming Birth Certificate Policies to Current Medical Standards for Transgender Patients H-65.967

1. Our AMA supports every individual's right to determine their gender identity and sex designation on government documents and other forms of government identification.
2. Our AMA supports policies that allow for a sex designation or change of designation on all government IDs to reflect an individual's gender identity, as reported by the individual and without need for verification by a medical professional.
3. Our AMA supports policies that include an undesignated or nonbinary gender option for government records and forms of government-issued identification, which would be in addition to "male" and "female."
4. Our AMA supports efforts to ensure that the sex designation

on an individual's government-issued documents and identification does not hinder access to medically appropriate care or other social services in accordance with that individual's needs.
Citation: Res. 4, A-13; Appended: BOT Rep. 26, A-14; Modified: Res. 003, A-19

Accuracy, Importance, and Application of Data from the US Vital Statistics System H-85.961

Our AMA encourages physicians to provide complete and accurate information on prenatal care and hospital patient records of the mother and infant, as this information is the basis for the health and medical information on birth certificates.

Citation: (CSA Rep. 6, I-00; Reaffirmed: Sub. Res. 419, A-02; Modified: CSAPH Rep. 1, A-12)

Reducing Suicide Risk Among Lesbian, Gay, Bisexual, Transgender, and Questioning Youth Through Collaboration with Allied Organizations H-60.927

Our AMA will partner with public and private organizations dedicated to public health and public policy to reduce lesbian, gay, bisexual, transgender, and questioning (LGBTQ) youth suicide and improve health among LGBTQ youth.

Citation: (Res. 402, A-12)

Health Care Needs of Lesbian Gay Bisexual and Transgender Populations H-160.991

1. Our AMA: (a) believes that the physician's nonjudgmental recognition of patients' sexual orientations, sexual behaviors, and gender identities enhances the ability to render optimal patient care in health as well as in illness. In the case of lesbian, gay, bisexual, transgender, queer/questioning, and other (LGBTQ) patients, this recognition is especially important to address the specific health care needs of people who are or may be LGBTQ; (b) is committed to taking a leadership role in: (i) educating physicians on the current state of research in and knowledge of LGBTQ Health and the need to elicit relevant gender and sexuality information from our patients; these efforts should start in medical school, but must also be a part of continuing medical education; (ii) educating physicians to recognize the physical and psychological needs of LGBTQ patients; (iii) encouraging the development of educational programs in LGBTQ Health; (iv) encouraging physicians to seek out local or national experts in the health care needs of LGBTQ people so that all physicians will achieve a better understanding of the medical needs of these populations; and (v) working with LGBTQ communities to offer physicians the opportunity to better understand the medical needs of LGBTQ patients; and (c) opposes, the use of "reparative" or "conversion" therapy for sexual orientation or gender identity. 2. Our AMA will collaborate with our partner organizations to educate physicians regarding: (i) the need for sexual and gender minority individuals to undergo regular cancer and sexually transmitted infection screenings based on anatomy due to their comparable or elevated risk for these conditions; and (ii) the need for comprehensive screening for sexually transmitted diseases in men who have sex with men; (iii) appropriate safe sex techniques to avoid the risk for sexually transmitted diseases; and (iv) that individuals who identify as a sexual and/or gender minority (lesbian, gay, bisexual, transgender, queer/questioning individuals) experience intimate partner violence, and how sexual and gender minorities present with intimate partner violence differs from their cisgender, heterosexual peers and may have unique complicating factors. 3. Our AMA will continue to work alongside our partner organizations, including GLMA, to increase physician competency on LGBTQ health issues. 4. Our AMA will continue to explore opportunities to collaborate with other organizations, focusing on issues of mutual concern in order to provide the most comprehensive and up-to-date education and information to enable the provision of high quality and culturally competent care to LGBTQ people.

Citation: CSA Rep. C, I-81; Reaffirmed: CLRPD Rep. F, I-91; CSA Rep. 8 - I-94; Appended: Res. 506, A-00; Modified and Reaffirmed: Res. 501, A-07; Modified: CSAPH Rep. 9, A-08; Reaffirmation A-12; Modified: Res. 08, A-16; Modified: Res. 903, I-17; Modified: Res. 904, I-17; Res. 16, A-18; Reaffirmed: CSAPH Rep. 01, I-18

Support of Human Rights and Freedom H-65.965

Our AMA: (1) continues to support the dignity of the individual, human rights and the sanctity of human life, (2) reaffirms its long-standing policy that there is no basis for the denial to any human being of equal rights, privileges, and responsibilities commensurate with his or her individual

capabilities and ethical character because of an individual's sex, sexual orientation, gender, gender identity, or transgender status, race, religion, disability, ethnic origin, national origin, or age; (3) opposes any discrimination based on an individual's sex, sexual orientation, gender identity, race, religion, disability, ethnic origin, national origin or age and any other such reprehensible policies; (4) recognizes that hate crimes pose a significant threat to the public health and social welfare of the citizens of the United States, urges expedient passage of appropriate hate crimes prevention legislation in accordance with our AMA's policy through letters to members of Congress; and registers support for hate crimes prevention legislation, via letter, to the President of the United States.

Citation: CCB/CLRPD Rep. 3, A-14; Reaffirmed in lieu of: Res. 001, I-16; Reaffirmation: A-17

Access to Basic Human Services for Transgender Individuals H-65.964

Our AMA: (1) opposes policies preventing transgender individuals from accessing basic human services and public facilities in line with one's gender identity, including, but not limited to, the use of restrooms; and (2) will advocate for the creation of policies that promote social equality and safe access to basic human services and public facilities for transgender individuals according to one's gender identity.

Citation: Res. 010, A-17

Appropriate Placement of Transgender Prisoners H-430.982

1. Our AMA supports the ability of transgender prisoners to be placed in facilities, if they so choose, that are reflective of their affirmed gender status, regardless of the prisoner's genitalia, chromosomal make-up, hormonal treatment, or non-, pre-, or post-operative status.
2. Our AMA supports that the facilities housing transgender prisoners shall not be a form of administrative segregation or solitary confinement.

Citation: BOT Rep. 24, A-18