

CONCISE EXPLANATORY STATEMENT

In accordance with the Administrative Procedures Act, R.I. Gen. Laws § 42-35-2.6, the following is a concise explanatory statement:

AGENCY: Rhode Island Department of Health

DIVISION: N/A

RULE IDENTIFIER: 216-RICR-10-10-1

RULE TITLE: Rules and Regulations Governing Vital Records

REASON FOR RULEMAKING:

This regulation eliminates the notarized physician letter that is currently required in order to change the gender of a vital record. Instead, persons born in Rhode Island can provide a self-attestation when requesting a gender change to a vital record.

ANY FINDINGS REQUIRED BY LAW AS A PREEQUISITE TO THE EFFECTIVENESS OF THE RULE: N/A

TESTIMONY AND COMMENTS:

A comment was received supporting the elimination of the affidavit by a health care professional and emphasized that this amendment eliminates barriers in individuals wanting to update their vital records. The Department accepts this comment.

A comment was received supporting the elimination of the affidavit by a health care professional. This comment further stated that this elimination gives individuals more autonomy. The Department accepts this comment.

A comment was received supporting the elimination of the affidavit by a health care professional. The comment also stated that such elimination removes fiscal barriers and provides further autonomy to individuals. The Department accepts this comment.

A comment was received supporting the elimination of the affidavit by a health care professional. This comment also emphasized that this amendment aligns with current best practices and professional ethics. The Department accepts this comment.

A comment was received supporting the elimination of the affidavit by a health care professional. Additionally, this comment noted the importance of protecting the privacy of individuals who request a gender change on their birth certificate or other vital record. It was requested that future amendments to this regulation would eliminate the requirement of marking a birth certificate as "amended" when the gender on a birth

certificate was changed. Currently, RIDOH does not mark birth certificates as amended if there is a change in sex.

A comment was received supporting the elimination of the affidavit by a health care professional stating the amendment aligns with best practices and is inclusive and protective of Rhode Islanders who identify as transgender or non-binary. This comment further emphasized the importance of not using the “strike-out” method when amending name changes on vital records – such method is not used by RIDOH. Additionally, the comment also stated the need for privacy on vital records as by marking vital records as “amended” when a gender change has occurred could have negative consequences. Currently, RIDOH does not mark birth certificates as amended if there is a change in sex.

CHANGES TO THE TEXT OF THE RULE:

§ 1.37(E)(5)(b), (c), and (d)

Eliminates the requirement of the affidavit from a physician to change the gender on a vital record.

REGULATORY ANALYSIS:

In development of this rule, consideration was given to:

- 1) Alternative approaches;
- 2) Overlap or duplication with other statutory and regulatory provisions; and
- 3) Significant economic impact on small business

No alternative approach, duplication or overlap was identified based on available information. RIDOH has determined that the benefits of the rule justify its costs.