



February 11, 2014

**Lambda Legal**  
**National Headquarters**  
**120 Wall Street, 19<sup>th</sup> Floor**  
**New York, NY 10005**

Ataveyra Medina, Esq.  
Governor's Aide on Social Welfare, Culture, Sports and Recreation  
La Fortaleza  
PO Box 9020082  
San Juan, Puerto Rico 00902-0082

**Re: Modernizing Procedures to Update Gender Markers on Driver's Licenses**

Dear Ms. Medina:

Lambda Legal writes in strong support of the efforts of the Department of Transportation and Public Works to adopt a procedure that allows transgender people to update the gender marker on driver's licenses in Puerto Rico. A procedure permitting an individual to update the gender marker upon certification from a licensed health care provider that he or she is living fulltime in the new gender is crucial for transgender people to live and work without discrimination in Puerto Rico.

Lambda Legal is a national nonprofit organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people, and those living with HIV through impact litigation, education, and public policy work. Our litigation docket, the more than 7,000 inquiries per year to our Legal Help Desk and our education work in communities around the country have provided us with significant knowledge about the types and consequences of discrimination faced by lesbian, gay, bisexual and transgender (LGBT) people.

Transgender people are often diagnosed with gender dysphoria—a strong and consistent desire to be of another gender. According to the fifth and most recent edition of the Diagnostic and Statistical Manual (DSM-V), gender dysphoria can cause significant distress or impairment in social, occupational, or other important areas of functioning.<sup>1</sup> According to the World Professional Association for Transgender Health (WPATH) Standards of Care (SOC), the most essential part of treatment for people with gender dysphoria is living in accordance with their gender identity. When transgender people are denied the opportunity to live fully in society according to their gender identity—including having appropriate

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<sup>1</sup> *Gender Dysphoria Fact Sheet*, American Psychiatric Association (APA), available at <http://www.dsm5.org/Documents/Gender%20Dysphoria%20Fact%20Sheet.pdf> (last accessed Feb. 7, 2014).

identity documents—that denial can lead to an increased risk of stress, anxiety, depression, substance abuse, and suicide.<sup>2</sup>

In Puerto Rico, there is currently no written policy or guideline by which a transgender resident of the Commonwealth can change the gender marker on his or her driver's license. Yet having an accessible and clear-cut process for changing the gender marker is critical. A driver's license is not only necessary to operate a motor vehicle. It plays a key role in verifying who someone is and acts as a gateway to employment, education and housing. Identification documents such as driver's licenses are used to secure credit cards and verify identity when entering establishments or passing through airport security. Identification documents affect the ability to secure a loan, or to prove to an employer that one is authorized to work.

The discrepancy between the gender marker on a driver's license and a person's lived gender can lead to forced disclosure of transgender status. When the gender marker is inaccurate, or the documents themselves are inconsistent, transgender people are robbed of their privacy. According to the largest nationwide survey to date on transgender discrimination, a staggering 44% of respondents reported experiencing harassment, assault or being asked to leave an establishment when they presented identity documents that were incongruent with their perceived gender expression.<sup>3</sup> When a transgender person is unable to change the gender marker to match who they are, he or she is left vulnerable to harassment, groundless accusations of fraud, discrimination, and violence.

Indeed, no one benefits when transgender people are unable to update the gender markers on their identification documents. Forcing a transgender person to depend on identification that inaccurately describes his or her lived gender disserves both the transgender individual and the third party who must check the identification. The person examining the identification, whether a police officer or a sales clerk, does not benefit when an identification document contains a gender designation that conflicts with a person's lived gender, which may lead to the false conclusion that the furnisher is not the person described by the license. Hair color, eye color, weight and age are useful identification tools to the extent that they describe who we are. Similarly, the gender marker is most useful as an identification tool when it is aligned with our lived gender and outward appearance.

There is a clear trend among U.S. jurisdictions to implement procedures that allow transgender people to update their gender marker on their driver's licenses. Nearly every jurisdiction in the United States has a policy or procedure that permits individuals whose gender has changed to update the gender marker on their license. Jurisdictions that have modernized their policies in recent years include Alaska, Delaware, the District of Columbia, Hawaii, Maine, Massachusetts, Nevada, New Jersey, New Mexico, Ohio, Pennsylvania, Rhode Island, and Washington State.<sup>4</sup> The new policies have proven to be effective.

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<sup>2</sup> See Amici Brief of the Maine Chapter of the American Academy of Pediatrics et al., *Doe v. Clenchy*, Law Court Docket No. PEN-12-582, (May 3, 2013), available at <https://www.glad.org/uploads/docs/cases/doe-v-clenchy/2013-05-03-doe-v-clenchy-amicus-brief-final.pdf> (last accessed Feb. 7, 2014).

<sup>3</sup> Grant JM, Mottet LA, Tanis J, Harrison J, Herman JL & Keisling M., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force 153 (2011).

<sup>4</sup> State of Alaska Division of Motor Vehicles, *Certification for Change of Sex Designator on Driver License or Identification Card* (August 2012), available at <http://doa.alaska.gov/dmv/forms/pdfs/427.pdf>; Delaware Division of Motor Vehicles, *Request for Gender Change on Driver License/Identification Card* (August 2011), available at <http://www.dmv.de.gov/>

At the federal level, in 2010, the U.S. Department of State revised its policy to allow transgender people to update gender in their U.S. Passports or on Consular Reports of Birth Abroad without requiring that they first obtain surgery.<sup>5</sup> In June 2013, the Social Security Administration modernized the procedure for transgender persons to update the gender marker in their records, eliminating a requirement that they first obtain surgery.<sup>6</sup> The fact that an individual can update the gender marker in his or her passport and other documents, but not in his or her Puerto Rican driver's license leads to discrepancies that can result in confusion, discrimination or even violence.

The best policies, such as the one in place in the District of Columbia, permit a transgender person to update the gender marker upon certification from a licensed health care provider affirming that the applicant's gender identity can reasonably be expected to continue in the foreseeable future. The District of Columbia's policy uses an easy-to-understand form that transgender people can fill out and then have signed by a licensed medical or social service provider at the point in gender transition where having an updated form of identification is appropriate. The form explicitly states that providing false information or providing the information for any unlawful purpose is punishable by law. In addition, the provider must provide his or her information, including a professional license number.

Thank you for your consideration of this important matter. We commend the Department of Transportation and Public Works for taking steps to help ensure the fair treatment of transgender

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[forms/driver\\_serv\\_forms/pdfs/gender\\_change\\_request\\_form.pdf](#); District of Columbia Dept. of Motor Vehicles, *Gender Designation on a Driver's License or Identification Card* (Nov. 2006), available at [http://dmv.dc.gov/pdf/Gender\\_Change\\_Policies.pdf](http://dmv.dc.gov/pdf/Gender_Change_Policies.pdf); Equality Hawaii, *Gender Designation Form* (June 2013), available at <http://www.equalityhawaii.org/gender-designation-form1.pdf>; The Maine Bureau of Motor Vehicles, *Gender Designation Form (June 2013)* available at: <http://www.maine.gov/sos/bmv/licenses/GENDER%20DESIGNATION%20FORM.pdf>; Massachusetts Registry of Motor Vehicles, *Gender Change Form* (Apr. 2009), available at <http://www.masstpc.org/publications/3party/MA%20RMV%20Gender%20Change%20Form.pdf>; Nevada Department of Motor Vehicles, *Medical Certification and Authorization (Gender Change)* (May 2010), available at <http://www.dmvnv.com/pdf/forms/dld136.pdf>; New Jersey Motor Vehicle Commission, *Declaration of Gender Designation Change Form* (April 2009), available at <http://www.state.nj.us/mvc/pdf/Licenses/genderchange.pdf>; New Mexico Taxation & Revenue Dept., *Gender Designation Change Request* (July 2010), available at <http://www.mvd.newmexico.gov/SiteCollectionDocuments/assets/Mvd10237.pdf>; Ohio Bureau of Motor Vehicles, *Declaration of Gender Change Form* (September 2009), available at <http://ai.eecs.umich.edu/people/conway/TS/News/US/OhioBMVGenderChangeForm2009.pdf>; Pennsylvania Dept. of Transportation, *Request for Gender Change on Driver's License/Identification Card* (Dec. 2010), available at [http://www.dmv.state.pa.us/pdotforms/dl\\_forms/DL-32.pdf](http://www.dmv.state.pa.us/pdotforms/dl_forms/DL-32.pdf); State of Rhode Island Division of Motor Vehicles, *Gender Designation On A License or Identification Card* (May 2012), available at [http://www.dmv.ri.gov/documents/forms/license/gender\\_designation.pdf](http://www.dmv.ri.gov/documents/forms/license/gender_designation.pdf); Washington State Department of Licensing, *Change of Gender Designation Request* (August 2009), available at <http://www.dol.wa.gov/forms/500043.pdf>.

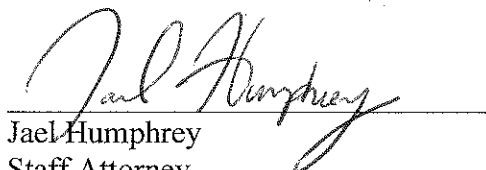
<sup>5</sup> The U.S. Department of State, *New Policy on Gender Change in Passports Announced* (Jun. 9, 2010), <http://www.state.gov/r/pa/prs/ps/2010/06/142922.htm>.

<sup>6</sup> The Official Website of the U.S. Social Security Administration, *Changing Numident Data for Reasons other than Name Change*, (Sep. 30, 2013), <https://secure.ssa.gov/poms.nsf/lnx/0110212200>; see also ; Lambda Legal, *Lambda Legal Applauds Social Security Update to Gender Marker Policy*, (Jun. 25, 2013), [www.lambdalegal.org/blog/lambda-legal-applauds-ssa-update-to-gender-marker-policy](http://www.lambdalegal.org/blog/lambda-legal-applauds-ssa-update-to-gender-marker-policy).



individuals in Puerto Rico. If you have any questions, or if you believe we can be of assistance to you, please do not hesitate to contact us.

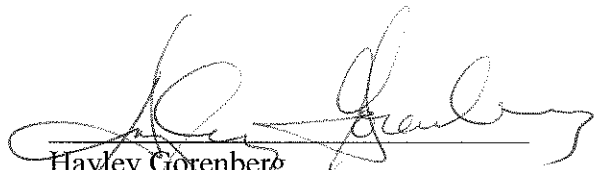
Sincerely,



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