

**From:** [Marshall Martinez](#)  
**To:** [Avery, Catherine, DOH](#); [Showers, Aryan, DOH](#); [Jimenez, Billy, DOH](#)  
**Subject:** [EXT] Rule Change 16.11.2  
**Date:** Monday, October 26, 2020 9:14:10 AM

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Dear DOH rule change administrators, per the public notice, which did not direct the reader on what email to submit comments, but did note that comments will be received via email through the conclusion of the hearing, which occurs today at 9:30am, Equality New Mexico submits the following comments;

**ISSUES WITH DOH RULE CHANGE 16.11.2 (certified nurse midwives):**

1. EQNM appreciates the intent of the DOH CNM rule change section that removes the words "male patient" and inserts instead "client/patient". It is important to be clear that it is within a CNM's scope of practice to treat patients who do not identify as a woman. This change reflects the importance of respecting a patient's gender identity.
2. EQNM urges DOH to remain consistent in this gender non-binary intent by changing section E to remove the reference to "him/her" as it relates to the provider.
3. EQNM urges DOH to make similar changes by removing reference to gender within the DOH Licensed Midwife rule, section <http://164.64.110.134/parts/title16/16.011.0003.html> in order to make it clear that licensed midwives can also treat patients who do not identify as a woman.
4. EQNM urges the removal of the words **"fetal demises" in section E, since it is not accurate terminology for addressing stillbirths or problems in delivery with the pregnant person or the pregnancy.** There is no definition for fetal demises in this rule or any rules. In fact, fetal demise is a term that is used in abortion care, which is not relevant to this rule. Additionally, section E without the words "fetal demises" covers what the department appears to want to address, which is complications experienced in the home birth with the pregnancy person or with the baby.

**E. Immediate reporting:** A CNM must report within 48 hours to the division any neonatal or maternal mortality in patients for whom ~~she/he the provider~~ has cared in the perinatal period in a setting other than a licensed health facility; ~~this includes fetal demises.~~ These will be reviewed by the division on a case by case basis for compliance with these CNM regulations.

It has become increasingly clear in recent years, what many LGBTQ folks have always known; using Gendered terminology to describe people at large just serves to be exclusionary even if that is not the intent. In an effort to ensure public health, it is more important than ever that sexual and reproductive health experts be allowed to treat their patients without the confines of gendered language, as many New Mexicans will not identify within these terms but will still need the basic health care that can be provided by CNMs and LMs. Gone are the days when we live the assumptions that all people who get pregnant are women, or all people who need basic sexual and reproductive health care were even assigned female at birth.

Equality New Mexico, on behalf of LGBTQ New Mexicans across the state, implores the Department of Health to remove all gendered language from its regulations; those applied to CNMs and LMs, but anywhere else that such language may exist, as early as possible. This shift in language should be applied both to patients and to providers. We should stop making assumptions about the bodies and identities of our patients, and we should ensure that no potential provider is discouraged from serving our communities because they don't feel that they fit into a binary of gender terminology.

Equality New Mexico recommends "patient/client" and "Provider/CNM/LM" as the only descriptors used in our regulations.

Thank you for your consideration for these changes.

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