

Transgender and Legally Married in Minnesota?

A recent federal court ruling has affirmed that, under Minnesota law, a marriage between two opposite-sex individuals, one of whom is transgender, is valid. The case, called [Radtke v. Miscellaneous Drivers & Helpers Union Local](#), stemmed out of a dispute about benefits available to an employee's spouse under an employee health benefits plan. The plan was subject to Employee Retirement Income Security Act (ERISA), which is a federal law setting out minimum standards for such plans.

In the Radtke case, the husband worked and participated in an ERISA employee health plan. The husband married a woman who had born male but who had undergone gender reassignment surgery to become female. After the marriage, the wife was added to the husband's employee health plan as an eligible family dependent. Later, however, the plan denied health coverage to the wife on the basis that it believed the husband and wife's marriage was invalid under Minnesota law, which would have made the wife ineligible for dependent coverage. The wife then brought an action against the plan for wrongful denial of benefits.

The federal district court which heard the case first clarified that the issue was not one of same-sex marriage; what the husband and wife were actually arguing was that their marriage was a valid opposite-sex marriage. The issue was essentially whether or not, under Minnesota law, the wife was female or male at the time of the marriage.

The court rejected the idea that, for purposes of marriage laws, a person's gender is immutably determined at birth. Other state requirements for a valid marriage (being an adult, not being married to anyone else, etc.) were determined at the time of marriage, and it would be illogical to use a determination of gender dating from the person's birth while at the same time evaluating all the other legal requirements as of the time of marriage. Evaluating all legal requirements for marriage as of the time of birth would result in no-one being allowed to marry, because everyone is under the legal marriage age at the time of birth! And, no other state law suggested that gender should be determined by different criteria than, say, age.

The court noted that at the time of the marriage, the wife was anatomically and hormonally female, and her (validly amended) birth certificate showed her sex as female. Further, because Minnesota law expressly provides for a person to amend their birth certificate to indicate a different gender, it was likely that the legislature intended for a person who does so to be able to use that new gender for all legal purposes.

Because the court found the situation in Radtke to be one not involving same-sex marriage, any amendment of Minnesota's constitution to prohibit same-sex marriages would not change the result in a future case similar to Radtke. Transgender spouses who had validly amended birth certificates at the time of their marriage, and who followed all other Minnesota requirements for a valid [marriage](#), should continue to expect to receive spousal healthcare and other employment-related benefits. If you have any questions or comments, feel free to email me at Jkohlmeier@rokolaw.com.

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As always, this was not legal advice, just commentary on the law. For legal advice you need to sign a retainer with a lawyer and pay them!

*Note: I had a very witty picture of RuPaul but I was told it was offensive, so it was removed.