



## NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE

### Notice of Public Hearing and Opportunity to Comment on Proposed Rules

**What are we proposing?** The New York City Department of Health and Mental Hygiene (“the Department”) is proposing that the Board of Health (“the Board”) amend Section 205.03 of Article 205 of the New York City Health Code (“the Health Code”) to increase the number of users who are required to submit electronic death records. In addition, the Department is proposing that the Board amend Section 207.13 of Article 207 of the Health Code to eliminate the fees charged for interim disposition permits and for correcting a final disposition as a result of an interim disposition.

**When and where is the hearing?** The Department will hold a public hearing on the proposed rules. The public hearing will take place from 2:00PM to 4PM on January 22, 2015. The hearing will be at:

New York City Department of Health and Mental Hygiene  
Gotham Center, 42-09  
28<sup>th</sup> Street, 3<sup>rd</sup> Floor, Room 3-32  
Long Island City, NY 11101-4132

**How do I comment on the proposed amendments to the Health Code?** Anyone can comment on the proposed amendments by:

- **Website.** You can submit comments to the Department through the NYC Rules website at <http://rules.cityofnewyork.us>
- **Email.** You can email written comments to [resolutioncomments@health.nyc.gov](mailto:resolutioncomments@health.nyc.gov)
- **Mail.** You can mail written comments to:  

New York City Department of Health and Mental Hygiene  
Gotham Center – 42-09 28<sup>th</sup> Street, CN 31  
Long Island City, NY 11101-4132
- **Fax.** You can fax written comments to the Department at 347-396-6087
- **Speaking at the hearing.** Anyone who wants to comment on the proposed amendments at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078. You can also sign up in the hearing room before or during the hearing on January 22, 2015. You can speak for up to five minutes.

**Is there a deadline to submit written comments?** Written comments must be received on or before January 22, 2015 at 5:00 pm.

**Do you need assistance to participate in the hearing?** You must tell us if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. You must tell us by January 8, 2015.

**Can I review the comments made on the proposed amendments?** You may review the comments made online at <http://rules.cityofnewyork.us/> on the proposed amendments by going to the website at

<http://rules.cityofnewyork.us/>. All written comments and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time by the Department's Office of the General Counsel.

**What authorizes the Department to make this rule?** Section 556(c) of the New York City Charter ("Charter") grants the Department jurisdiction to supervise and control the registration of deaths. Section 558(b), (c), and (g) of the Charter empowers the Board of Health to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 1043(a) of the Charter grants rulemaking powers to the Department.

**Where can I find the Health Code?** The Health Code is located in Title 24 of the Rules of the City of New York.

**What rules govern the rulemaking process?** The Department must satisfy the requirements of Section 1043 of the Charter when adding or amending rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

### **Statement of Basis and Purpose**

#### ***Statutory Authority***

These amendments to the New York City Health Code ("the Health Code") are promulgated pursuant to Sections 558 and 1043 of the New York City Charter ("the Charter"). Section 558(b) and (c) of the Charter empowers the Board of Health ("the Board") to amend the Health Code and to include in the Health Code all matters to which the authority of the New York City Department of Health and Mental Hygiene ("the Department") extends. Section 1043 grants the Department rulemaking authority.

#### ***Background and New Requirements***

Currently all facilities in the City of New York that report 25 or more deaths per year, including hospitals, hospices, funeral homes and the Office of Chief Medical Examiner, must submit reports of death to the Department electronically. This system of electronic death registration enables reporting of 94% of all deaths in New York City. In order to increase the number of deaths reported electronically, the Department proposes:

1. To require that all hospitals and hospices reporting ten or more deaths per year (reduced from 25) report them electronically;
2. To require that skilled nursing facilities reporting ten or more deaths per year also submit reports of death electronically;
3. To require that all facilities that voluntarily report deaths electronically continue to do so;
4. To eliminate the fee currently charged for both processing interim disposition permits and for correcting a final disposition as a result of an interim disposition.

The new requirements will increase the number of deaths reported electronically each year. Furthermore, the elimination of fees charged for both filing interim disposition permits and correcting the final disposition as a result of an interim disposition will encourage filing of interim disposition permits. Currently, charging these fees discourages funeral directors from filing interim disposition permits, which results in delayed reporting of deaths.

At its meeting on December 9, 2014, the Board adopted a resolution that included amendments to Section 207.13 of Article 207 of the Health Code, which is also proposed to be amended below. The

amendments proposed below reflect Article 207 of the Health Code as it exists at the time this proposal was approved for publication, and do not yet reflect the changes approved for adoption on December 9, 2014.

The proposal is as follows:

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this Department, unless otherwise specified or unless the context clearly indicates otherwise.

New material is underlined.

[Deleted material is in brackets.]

**RESOLVED**, that subdivision (d) of Section 205.03 of Article 205 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is hereby amended, to be printed together with explanatory notes, to read as follows:

(d) All hospitals, skilled nursing facilities and hospices that report [25] 10 or more deaths to the Department per year, and the Office of Chief Medical Examiner, shall electronically prepare any death certificates and confidential medical reports, and shall, within 24 hours after the death or finding of the remains, file such documents electronically with the Department by means of computer programs specified and provided or otherwise authorized for use by the Department. In circumstances where a person required to report a death pursuant subdivision (a) of this section files a report thereof electronically with the Department, and an authorized funeral director or undertaker has taken charge of the remains, such funeral director or undertaker shall, within 72 hours after the death or the finding of the remains, file such document with the Department electronically by means of computer programs specified and provided or otherwise authorized for use by the Department. If the remains are to be buried in the City cemetery, the person required to report a death pursuant to subdivision (a) of this section shall complete the process of electronically filing the entire certificate of death and confidential medical report, if any, within 72 hours after the death or finding of the remains. All persons required or authorized to report a death or to file a death certificate with the Department that are not required to report or file electronically pursuant to this subdivision may, at their election and upon approval by the Department, implement an electronic reporting system [or continue to report deaths on approved paper forms. This subdivision shall take effect on April 1, 2010]. Such election will be irrevocable upon commencement of electronic filing by such facilities.

*Notes:* By resolution adopted on XXX, the Board of Health amended subdivision (d) of Section 205.03 to require all hospitals and hospices reporting ten or more deaths per year to report them electronically; added “skilled nursing facilities” to the list of users who must report deaths electronically; and required that the election to report deaths electronically be irrevocable once electronic filing commences.

**RESOLVED**, that Section 207.13 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, is hereby amended, to be printed together with explanatory notes, to read as follows:

(f) The Department shall, effective January 1, 2010, charge an application fee of \$40.00 to correct or amend birth or death certificates as follows, except there shall be no fee to correct a final disposition as a result of an interim disposition issued pursuant to Article 205 of this Code:

(g) The Department shall, effective January 1, 2010, charge a fee of \$40.00 for disposition permits issued pursuant to Article 205, except those for burials in the City cemetery or for interim dispositions.

*Notes:* By resolution adopted on XXX, the Board of Health amended subdivisions (f) and (g) of Section 207.13 to eliminate the fees charged for processing interim disposition permits and to correct the final disposition as a result of an interim disposition.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE:** Amendment of Rules Governing Electronic Filing of Death Certificates

**REFERENCE NUMBER:** 2014 RG 096

**RULEMAKING AGENCY:** Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Natalie Kotkin  
Mayor's Office of Operations

12/3/2014  
Date

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Amendment of Rules Governing Electronic Filing of Death Certificates

**REFERENCE NUMBER:** 2014 RG 096

**RULEMAKING AGENCY:** Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: December 2, 2014