

DEPARTMENT OF HEALTH
BOARD OF HEALTH

NOTICE OF INTENTION TO AMEND SECTIONS 205.25 AND 205.33 OF ARTICLE
205 OF THE NEW YORK CITY HEALTH CODE
NOTICE OF PUBLIC HEARING

In compliance with Section 1043(b) of the New York City Charter and pursuant to the authority granted to the Board of Health by Section 558 of said Charter, notice is hereby given of the proposed amendment of Sections 205.25 and 205.33 of Article 205 of the New York City Health Code.

NOTICE IS HEREBY GIVEN THAT THE DEPARTMENT WILL HOLD A PUBLIC HEARING ON THE PROPOSAL ON MONDAY, AUGUST 23, 2004 FROM 2:00 P.M. TO 4:00 P.M. IN THE NINTH FLOOR CONFERENCE ROOM (ROOM 930-A) AT 125 WORTH STREET, NEW YORK, NEW YORK 10013.

PERSONS INTERESTED IN PRE-REGISTERING TO SPEAK SHOULD NOTIFY, IN WRITING, RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET, CN-31, NEW YORK, NEW YORK (212) 788-5010 BY FRIDAY, AUGUST 20, 2004. PLEASE INCLUDE A TELEPHONE NUMBER WHERE, IF NECESSARY, YOU MAY BE REACHED DURING NORMAL WORKING HOURS. SPEAKERS WILL BE LIMITED TO FIVE (5) MINUTES.

PERSONS WHO REQUEST THAT A SIGN LANGUAGE INTERPRETER OR OTHER FORM OF REASONABLE ACCOMMODATION FOR A DISABILITY BE PROVIDED AT THE HEARING ARE ASKED TO NOTIFY RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET, CN-31, NEW YORK, NEW YORK 10013; (212) 788-5010 BY MONDAY, AUGUST 9, 2004.

REGISTRATION WILL BE ACCEPTED AT THE DOOR UNTIL 2:00 P.M. HOWEVER, PREFERENCE WILL BE GIVEN TO THOSE WHO PREREGISTER.

WRITTEN COMMENTS REGARDING THE PROPOSAL MUST BE SUBMITTED TO RENA BRYANT, SECRETARY TO THE BOARD OF HEALTH, 125 WORTH STREET, CN-31, NEW YORK, NEW YORK 10013, OR BY E-MAIL TO THIS ADDRESS, PUBLICCOMMENTS@HEALTH.NYC.GOV, OR BY FAX ADDRESSED TO RENA BRYANT AT (212) 788-4315, ON OR BEFORE MONDAY, AUGUST 23, 2004.

WRITTEN COMMENTS RECEIVED BY THE SECRETARY TO THE BOARD OF HEALTH AND A TRANSCRIPT OF THE PUBLIC HEARING WILL BE AVAILABLE FOR PUBLIC INSPECTION WITHIN A REASONABLE TIME AFTER

RECEIPT, BETWEEN THE HOURS OF 9:00 A.M. AND 5:00 P.M. AT THE OFFICE OF THE SECRETARY.

STATUTORY AUTHORITY

This amendment to the New York City Health Code (the “Health Code”) is promulgated pursuant to Sections 556, 558 and 1043 of the New York City Charter (“Charter”). Section 556(d) of the Charter gives the Department of Health and Mental Hygiene (the “Department”) jurisdiction to supervise and control the registration of births, fetal deaths and deaths. Section 558(b) and (c) of the Charter empower the Board of Health to amend the Health Code and to include in the Health Code all matters to which the authority of the Department extends. Section 1043 grants the Department rulemaking authority.

STATEMENT OF BASIS AND PURPOSE

The New York City Department of Health and Mental Hygiene is currently developing an Electronic Death Registration System (EDRS) and plans to begin implementation in October 2004. [See Local Law 2 of 2004]. EDRS will enable death certificates to be filed, processed and amended electronically. EDRS will provide many benefits, including, improved accuracy, data quality and timeliness; enhanced security provided by encryption and identity authentication and real-time error-detection, to name a few. To facilitate the implementation and use of EDRS, and to update the Department’s procedures and bring them into conformance with those of many other jurisdictions, it is necessary to propose certain changes in the Health Code.

The Department proposes to repeal Section 205.15 in its entirety. The provision requires that when an amputated part of a living person is recovered during an operation, a certificate of amputation be delivered within 48 hours to a funeral director, who then shall file it with the Department within 72 hours following the operation. The Department believes that this requirement is outdated, does not serve a purpose and removing this requirement would also be consistent with other jurisdictions that have no such requirement.

The Department proposes amending particular provisions of Sections 205.25 and 205.33. These provisions require that an application for a permit for cremation or disinterment be accompanied by an affidavit. The Department believes that there is no need for the affidavit to accompany the application submitted to the Department but rather that the affidavit is appropriately retained by the funeral director or undertaker in charge of the cremation or disinterment.

STATEMENT PURSUANT TO SECTION 1042 - REGULATORY AGENDA

Proposals for amending Sections 205.25(d) and 205.33(b) were not included in the Regulatory Agenda because these revisions were deemed necessary by the Department only after it had begun extensive work on EDR system development.

The proposal is as follows:

Note - matter in brackets [] to be deleted
matter underlined is new

RESOLVED, that Section 205.15 of the New York City Health Code relating to the disposal of amputated parts and certificate of amputation, be and the same is hereby repealed.

RESOLVED, that paragraph (d) of section 205.25 of the New York City Health Code as _____ on the _____ day of _____, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

Section 205.25 Burial, cremation and transportation of human remains; permit

§205.25(d) Application for a cremation permit shall be made by the next of kin, legal representative or friend of the deceased. The application shall be supported [accompanied] by an affidavit which establishes the authority of such next of kin, legal representative or friend to request cremation. The affidavit shall contain the name of the funeral director or undertaker who is to arrange for cremation, the name of the crematory where cremation is to take place and a statement that the applicant assumes all responsibility for the cremation. Such affidavit shall be maintained by the funeral director or undertaker. No cremation permit shall be issued unless the application is approved by the office of the chief medical examiner pursuant to §878-3.1 of the Administrative Code.

Notes: Subsection (d) of Section 205.25 of the New York City Health Code is being amended to recognize the expertise of licensed funeral directors and rely on their representations that cremations have been properly authorized. It will also facilitate electronic filing of death certificates.

RESOLVED, that paragraph (b) of section 205.33 of the New York City Health Code as _____ on the _____ day of _____, be and the same hereby is amended, to be printed together with explanatory notes, to read as follows:

Section 205.33 Disinterment permits; opening of coffins or caskets

§205.33(b) Disinterment permits may be issued only to funeral directors and undertakers or, if the remains are to be reburied in the same cemetery, to the person in charge of the cemetery. Application for a disinterment permit shall be made on a form furnished by the Department and submitted at any office maintained and designated by the Department for such purposes. The application shall be supported [accompanied] by an affidavit from the next of kin, legal representative or other authorized person requesting disinterment. Such affidavit shall be maintained by the funeral director or undertaker.

Notes: Subsection (b) of Section 205.33 of the New York City Health Code is being amended to recognize the expertise of licensed funeral directors and rely on their representation that disinterments have been properly authorized. It will also facilitate electronic filing of death certificates.

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