

ARTICLE 201
BIRTHS

§201.01 Definitions.

When used in this title:

- (a) "Live birth" or "birth" means the complete expulsion or extraction from its mother of a product of conception, regardless of the duration of pregnancy, which after expulsion or extraction shows evidence of life, such as breathing, beating of the heart, pulsation of the umbilical cord or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached.
- (b) "Person in charge of a hospital" means the officer or employee who is responsible for the administration of a hospital or similar institution and includes but is not limited to a person holding the title of chief executive officer, administrator, superintendent, director or executive director.
- (c) "Hospital" means a facility or institution licensed pursuant to Article 28 of the State Public Health Law and defined as such in §2801 of said law.

§201.03 Reporting births.

- (a) When a live birth occurs in the City, it shall be reported to the Department as follows:
 - (1) If the birth occurs in a hospital or route thereto, by the person in charge of such hospital or his or her designee; or,
 - (2) If the birth occurs elsewhere than in a hospital or en route thereto, by the physician, licensed midwife or registered physician assistant, in attendance at or after such birth; or,
 - (3) If a physician, licensed midwife or registered physician assistant attends at or after the birth elsewhere than in a hospital, or en route thereto, as an associate of a hospital, by the person in charge of the hospital with which he or she is associated or by the designee of such person in charge; or,
 - (4) If the birth occurs without the attendance of a physician, licensed midwife or registered physician assistant, by either of the parents of the child or, if no parent is alive, by the next of kin of the child or any person present at the birth.
- (b) A person required to report a live birth pursuant to paragraphs (1), (2) or (3) of subdivision (a) of this section shall file a certificate of birth and a confidential medical report, and a person required to report pursuant to paragraph (4) of subdivision (a) of this section shall file a certificate of birth only. Reports shall be filed within 5 business days after the birth with the office maintained and designated by the Department for such purposes.
- (c) The person required to report a birth shall provide to the Department information that was required to be reported, but that was not so reported, within five business days of that person receiving the information.
- (d) Upon a request by the Department for additional information that may be necessary to complete, clarify or verify the information required to be reported, the person required to report a birth shall provide such information to the Department within five business days of the request.

§201.05 Preparation and certification of certificate of birth and confidential medical report of birth.

- (a) The certificate of birth and confidential medical report shall be prepared and certified by the person required to file the same pursuant to §201.03, but when the birth occurs in a hospital or en route thereto, the certificate and the confidential medical report shall be prepared and certified by the physician, licensed midwife or registered physician assistant in attendance or assisting, or by a certified nurse practitioner or registered professional nurse present at or after the birth, or by a designee of the person in charge of the hospital who is trained or approved by the Department. When a physician, licensed midwife or registered physician assistant attends at or after a birth elsewhere than in a hospital or en route thereto, he or she shall prepare and certify the certificate and confidential medical report. A person certifying a certificate and confidential medical report shall examine said documents for correctness of the information contained thereon and make any necessary changes.
- (b) The certificate and confidential medical report shall be prepared on forms prescribed by the Board and furnished by the Department and shall contain no statement indicating the marital name or status of the mother or whether the child was born in or out of wedlock. The person preparing the certificate shall enter all information required by the form provided by the Department, except that in case of a child born out of wedlock such person shall not enter the name of the putative father unless there is submitted to the preparer a verified written consent of the putative father pursuant to §17-166(d) of the Administrative Code or a voluntary acknowledgement of paternity pursuant to §4135-b of the State Public Health Law. When the birth occurs in a hospital or en route thereto, the information required by the forms shall be taken from the hospital records of the case. In a hospital, worksheets provided or otherwise approved by the Department shall be used in the preparation of the certificate and confidential medical report, and if such worksheets are used by individuals other than a physician, licensed midwife, registered professional nurse, certified nurse practitioner or registered physician assistant, then such individuals shall be trained or approved by the Department. Worksheets shall be retained by the hospital for a period of at least three years from the date of the birth, and shall, upon request, be made available to the Department for inspection.
- (c) All live births occurring in the City at facilities reporting 100 or more live births per year shall be reported to the Department electronically by means of computer programs specified and provided or otherwise authorized for use by the Department. All facilities at which fewer than 100 live births are reported per year may, at their election and upon approval by the Department, implement an electronic birth certificate reporting system or continue to report births on approved paper forms.
- (d) All facilities required to file birth certificates electronically and facilities reporting fewer than 100 births per year which elect to report electronically, shall apply to the Department prior to implementing any system and, upon approval by the Department, shall make electronic reports of births and, on and after January 1, 2014, acknowledgments of paternity, only in such manner and on computer programs prescribed and provided or otherwise authorized by the Department. Facilities subject to this requirement must retain acknowledgments of paternity reported electronically for a period of at least three years from the date of birth and must make these records available to the Department for inspection upon request.

§201.07 Confidential medical report of birth; not subject to compelled disclosure subpoena or inspection.

- (a) The confidential medical report of birth shall be confidential and not subject to compelled disclosure or to inspection by persons other than the Commissioner or authorized personnel of the Department, except in a criminal action or criminal proceeding, or for official purposes by a federal, state, county or municipal agency charged by law with the duty of detecting or prosecuting crime. The Commissioner may, however, approve the inspection of such medical reports for scientific purposes.
- (b) Within the context of this section, scientific purposes shall mean epidemiologic surveillance and investigation by a governmental public health agency, research, or the compilation of statistics relating factors bearing on disease incidence, prevalence, mortality or treatment.

§201.09 Foundlings.

- (a) The report of the finding of a child whose parents are unknown, filed by the Commissioner of the City Administration for Children's Services in accordance with the provisions of subdivision two of §398 of the State Social Services Law, shall constitute the birth record of such child.
- (b) The address or location where such child was found shall be considered as the place of birth, and the date of birth shall be that determined by the Commissioner of the City Administration for Children's Services as the approximate date of birth.
- (c) If, however, such child is subsequently identified, and a certificate of birth for such child has been duly filed either before or following identification, the report of the Commissioner of the City Administration for Children's Services shall be placed under seal by the Department, and such seal shall not be broken except upon order of a court of competent jurisdiction.

§201.11 Delayed registration of birth.

- (a) When a birth in the City is not recorded in the Department within one year following the birth, it may be recorded with the approval of the Commissioner or the Commissioner's designee. Application for such delayed registration shall be made on a form furnished by the Department by the parents or surviving parent, or by the guardian of the person whose birth is to be recorded, if such person is a minor, or by the person himself or herself if he or she is 18 years of age or over and his or her parents are dead. The application shall be accompanied by the following:
 - (1) A certified statement issued by the Department that a search was made for the record of birth in question and that such record was not found; and
 - (2) Such documentary and other evidence as will establish to the satisfaction of the Commissioner or the Commissioner's designee the facts and date of birth as alleged in the application. The burden of submitting convincing proof rests with the applicant.
- (b) When an application for delayed registration has been granted and a certificate of birth on a delayed registration form is filed pursuant to this section, the Department shall issue to the applicant without further charge, in exchange for the certified statement submitted pursuant to paragraph (1) of subdivision (a) of this section, a certified copy of the certificate of birth.
- (c) No application for delayed registration shall be granted, and no delayed certificate of birth shall be registered or issued for a deceased person.

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