



DEPARTMENT OF HEALTH AND MENTAL HYGIENE

BOARD OF HEALTH

**NOTICE OF ADOPTION
OF AMENDMENTS TO ARTICLE 201
OF THE NEW YORK CITY HEALTH CODE**

In compliance with §1043(b) of the New York City Charter (the “Charter”) and pursuant to the authority granted to the Board of Health by §558 of said Charter, a notice of intention to amend Article 201 of the New York City Health Code (the “Health Code”) was published in the City Record on July 9, 2013 and a public hearing was held on August 9, 2013. No testimony was given, no comments were received, and no changes have been made to the resolution. At its meeting on September 10, 2013, the Board of Health adopted the following resolution.

STATEMENT OF BASIS AND PURPOSE

Statutory authority

These amendments to the New York City Health Code (the “Health Code”) are issued in accordance with §§ 556, 558 and 1043 of the New York City Charter (the “Charter”). Section 556 of the Charter provides the Department of Health and Mental Hygiene (the “Department”) with the authority to regulate all matters affecting health in the City of New York. Sections 558(b) and (c) of the Charter empower the Board of Health (the “Board”) to amend the Health Code and to include in the Health Code all matters over which the Department has authority. Section 1043 of the Charter gives the Department rulemaking powers.

Basis and purpose of the changes

Currently, facilities report most vital events using the Electronic Vital Event Registration System (EVERS). The Department has required all facilities reporting 100 or more live births annually to report them electronically since January 1, 1997. More than 99% of the 123,000 live births each year are reported electronically. Paper forms are used for home births, but most in-home delivery attendants voluntarily use EVERS for such reporting.

If a mother is not married, an Acknowledgment of Paternity (AOP) provides a way to legally establish paternity for a child (Public Health Law §4135-1). The AOP form can only be used if the mother was not married at any time during the pregnancy or when the child was born, and if only one man could be the father of the child. The AOP must be signed by both the mother and the father before two witnesses not related to the parents. Hospitals file about 30% of all live births in New York City (36,000 annually) with AOPs. Parents later file another 5,000 AOPs, at which time a replacement birth record is prepared by the Department's Bureau of Vital Statistics. AOPs must be filed with the Department to be effective.

At this time, all AOPs are completed on paper. However, the Department requires all hospital births to be reported electronically. Consequently, the Bureau of Vital Statistics receives the birth records immediately upon completion, but must wait for messenger or mail delivery of the associated paper AOPs. This delays birth registration and further processing, and often necessitates follow-up to hospitals

for missing or incomplete AOPs. The amendment will allow for a more efficient method in which hospitals will send the AOPs electronically through secure fax/image transmission to the Bureau of Vital Statistics. To make the process consistent with existing birth reporting practices, the amendment will require all facilities reporting 100 or more live births per year to report acknowledgments of paternity electronically. To give facilities and the Department time to prepare, the requirement will take effect on January 1, 2014.

The amendment will also require facilities to retain AOPs reported electronically for a period of at least three years from the date of birth and require facilities to make these records available to the Department for inspection upon request. This retention period is consistent with the current requirement for hospitals to retain birth worksheets, and will enable inspection of original AOPs if necessary.

Accordingly, the Board is amending §201.05(d) of the Health Code to require electronic reporting of acknowledgments of paternity for facilities reporting 100 or more live births annually and to require the retention of such reports for at least three years to be made available for inspection by the Department upon request.

“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 text is underlined; deleted material is in [brackets].

The resolution is as follows:

RESOLVED, that subdivision 201.05(d) of Article 201 of the New York City Health Code, found in Title 24 of the Rules of the City of New York, be amended to be printed as follows:

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

* * * * *

(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.

Notes: Subdivision (d) of section 201.05 was amended by resolution adopted on September 10, 2013 to require electronic reporting of acknowledgments of paternity for facilities reporting 100 or more live births annually and to require the retention of such reports for at least three years to be made available for inspection by the Department upon request.