

DEPARTMENT OF HEALTH
BOARD OF HEALTH

NOTICE OF ADOPTION TO AMEND SECTIONS 205.15, 205.25 AND 205.33 OF
ARTICLE
205 OF THE NEW YORK CITY HEALTH CODE

In compliance with Section 1043(b) of the New York City Charter (the ACharter®), a Notice of Intention to amend Sections 205.25 and 205.33 of Article 205 of the New York City Health Code and a notice of public hearing was printed in the City Record on Friday, July 23, 2004. A public hearing was held on Monday, August 23, 2004. Three written comments were received. Testimony was given by two organizations reiterating their written comments. No changes were proposed by the Department based on the testimony/comments. The Board of Health at its September 14, 2004 meeting adopted the following:

STATUTORY AUTHORITY

These amendments to the New York City Health Code (the “Health Code”) are 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 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The Department repealed Section 205.15 of the Health Code in its entirety.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.

Sections 205.25(d) and 205.33(b) are amended to eliminate the necessity of affidavits accompanying applications for permits for cremation and disinterment. The Department believes that there is no need for the affidavits to accompany the applications submitted to the Department but rather that the affidavits can be retained by the funeral director or undertaker in charge of the cremation or disinterment.

STATEMENT PURSUANT TO SECTION 1042 - REGULATORY AGENDA

These rules were not included in the Regulatory Agenda because these revisions were deemed necessary by the Department to account for the recent legislation enacted by the City Council requiring the creation of an electronic death registration system. [See Local Law 2 of 2004].

The rules are 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 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 was amended on September 14, 2004 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 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 was amended on September 14, 2004 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.

A TRUE COPY
RENA BRYANT
SECRETARY TO THE BOARD OF HEALTH