



**NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
BOARD OF HEALTH**

**Notice of Adoption of Amendments to
Articles 203 and 205 of the New York City Health Code**

In compliance with section 1043(b) of the New York City Charter (“the Charter”) and pursuant to the authority granted to the New York City Board of Health (“the Board”) by section 558 of the Charter, a notice of intention (“NOI”) to amend Articles 203 and 205 of the New York City Health Code (“the Health Code”) to modify the disposition of conceptus requirements and to allow certifications of termination of pregnancy to be completed by designees of reporting parties was published in the New York City Record on July 2, 2024. A public hearing was held on August 15, 2024, and no one testified at the hearing; 36 written comments were received from 57 individuals. At its meeting on September 30, 2024, the Board approved the following resolution.

Statement of Basis and Purpose of Rule

After consideration of the comments received, the Board is amending Health Code Articles 203 and 205 as initially proposed. These amendments eliminate the requirement that any conceptus that has completed 24 or more weeks of gestation be disposed of as human remains. Disposition as human remains is available upon request by those who desire burial or cremation and a process for this is included in the amendments as well. Of the 36 written comments received about this portion of the proposed amendments, 19 opposed this amendment on philosophical or religious grounds, 57 commentors in 16 written comments – one letter had 22 signatories – were in favor of the amendment as supportive of reproductive health choice and non-governmental intervention in families’ private affairs, and one was neutral.

The Board is also amending Health Code Article 203 as initially proposed to allow certification of induced terminations of pregnancy by designees of licensed healthcare practitioners and to change terminology to make the rules gender neutral. Two of the written comments opposing the human remains amendments also opposed making the terminology gender neutral while two of the other written comments were in favor of it.

The amendment is as follows:

New material is underlined.

[Deleted material is in brackets.]

“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.

RESOLVED, that section 203.03 of Article 203 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§ 203.03 Reporting Terminations of Pregnancy.

(a) When a termination of pregnancy occurs in the City it shall be reported as follows:

- (1) If [the event occurs] in a hospital or en route thereto, by the person in charge of such hospital or his or her designee; or
- (2) If [the event occurs] elsewhere than in a hospital or en route thereto, by the licensed health care practitioner in attendance at or after such event or by their designee; or
- (3) If a licensed health care practitioner attends at or after [the event] a termination of pregnancy 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 the licensed health care practitioner is associated or by the designee of such person in charge; or
- (4) If [the event is] investigated by the office of chief medical examiner, by a medical examiner within that office; or
- (5) If [the event is] a medication-induced termination of pregnancy, by the licensed health care practitioner prescribing or ordering the medication or by their designee.

[. . .]

(d) In circumstances where the issuance of a disposition permit pursuant to 24 RCNY Health Code Article 205 is [required or] requested and a person required to report a termination of pregnancy pursuant to subdivision (a) of this section [does] has not [file] filed a report thereof electronically, the requirement of filing a certificate and confidential medical report, if any, required by this section may be fulfilled by delivery of the same immediately upon demand and within the time prescribed by subdivision (c) of this section to a funeral director or undertaker authorized to take charge of the conceptus or to the person in charge of the City mortuary if the remains are to be buried in the City cemetery. Such funeral director, undertaker or person in charge of the City mortuary, or an agent of such funeral director or undertaker registered with the Department pursuant to 24 RCNY Health Code Article 205 or a designee of the person in charge of the mortuary, shall then file the certificate within 48 hours following the receipt of the certificate of termination of pregnancy. Funeral directors, undertakers, City mortuary personnel, and their agents or designees, shall not divulge information in the confidential documents except to authorized personnel of the Department.

[. . .]

RESOLVED, that subdivision (a) of section 203.05 of Article 203 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§ 203.05 Preparation and Certification of Certificates.

- (a) (1) *Preparation.* Any certificate or confidential medical report required by this Article shall be prepared by the same person required to file the same pursuant to 24 RCNY Health Code § 203.03 but when a termination of pregnancy occurs in a hospital or en route thereto, the certificate and confidential medical report, if any, shall be prepared by a licensed health care practitioner in attendance, assisting or present at or after the event, by the chief medical officer of the hospital, by the physician in charge of the service on which the [woman] pregnant person was treated, or by a designee of the person in charge of the hospital who is trained or approved by the Department. When a licensed health care practitioner attends at or after a termination of pregnancy elsewhere than in a hospital or en route thereto, he or she, or a designee of such person who is trained or approved by the Department, shall prepare the required certificate and confidential medical report, if any.
- (2) *Certification.* A certificate of spontaneous termination of pregnancy and the confidential medical report shall be certified by a physician in attendance or assisting at or after the event, by the chief medical officer of the hospital where the event occurred, or by the physician in charge of the service on which the [woman] pregnant person was treated, or by a designee of such person who is trained or approved by the Department. A certificate of induced termination of pregnancy shall be certified by a licensed health care practitioner, who is licensed or authorized pursuant to the State Education Law or other applicable law to perform such a termination of pregnancy, in attendance or assisting at or after the event, by the chief medical officer of the hospital where the event occurred, or by the physician in charge of the service on which the [woman] pregnant person was treated, or by a designee of such person who is trained or approved by the Department. When a termination of pregnancy certificate is filed by the office of chief medical examiner, the certificate shall be certified by a medical examiner within that office. A person certifying a certificate and confidential medical report, if any, shall examine said documents for correctness of the information contained thereon and make necessary changes.

RESOLVED, that section 203.09 of Article 203 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§ 203.09 Disposal of Conceptus.

[Every] Upon request a conceptus [that has completed 24 or more weeks of gestation shall] may be disposed of in a manner provided for human remains generally and in accordance with a disposition permit issued pursuant to 24 RCNY Health Code Article 205. [When, however, a conceptus has not completed 24 weeks of gestation, it may be disposed of in accordance with a disposition permit issued pursuant to 24 RCNY Health Code Article 205, upon request.]

RESOLVED, that section 205.01 of Article 205 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§ 205.01 Definitions.

When used in this title:

- (a) "Burial" means interment of human remains in the ground or in a tomb, vault, crypt, cell or mausoleum, and includes any other [usual] means of final disposal of human remains other than cremation.
- (b) "Cremation" means the burning of human remains in a crematory.
- (c) "Human remains" or "remains" means [a conceptus which has completed 24 weeks or more of gestation or] all or any part of the dead body of a human being but does not include human ashes recovered after cremation. For purposes of this Article a conceptus of [less than 24 weeks gestation] any gestational age for which the issuance of a disposition permit pursuant to 24 RCNY Health Code § 205.21 has been requested shall be treated as human remains.

[. . .]

RESOLVED, that section 205.13 of Article 205 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§ 205.13 Disposal of Human Remains; Time Limit.

- (a) Except as set forth in subdivision (b) of this section, remains of persons dying in the City, or remains resulting from a termination of pregnancy occurring in the City for which the issuance of a disposition permit pursuant to 24 RCNY Health Code § 205.21 has been requested, shall be buried, cremated or transported out of the City within four days following death or termination of pregnancy. Such remains may, however, within the four-day period, be placed in the general reception vault of a cemetery for a period not exceeding ten days from the placement therein. The Department may extend the time limitations contained in this subdivision and may, in granting an extension, specify conditions to be observed to prevent seepage or escape of offensive odors.

- (b) Human remains may be temporarily held for more than the time periods specified in subdivision (a) of this section without being buried, cremated or transported out of the City only if an appropriate interim disposition permit has been issued pursuant to 24 RCNY Health Code § 205.21.

RESOLVED, that section 205.15 of Article 205 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§ 205.15 Delivery of Remains to Funeral Director or Undertaker; Unclaimed Remains.

When a death or a termination of pregnancy for which the issuance of a disposition permit pursuant to 24 RCNY Health Code § 205.21 has been requested occurs in a hospital, hospice or other health care facility, the person in charge shall deliver the remains immediately upon demand and within the time for filing reports prescribed in 24 RCNY Health Code §§ 203.03(c) and 205.03(b) to a funeral director or undertaker who presents a certification that he or she has been authorized to take charge of the remains by the person in control of disposition as defined in 24 RCNY Health Code § 205.01. If the human remains are not claimed within 24 hours following death or termination of pregnancy, the person in charge of the hospital, hospice or other health care facility shall immediately notify the person in charge of the City mortuary. If, however, an autopsy is to be performed on unclaimed remains pursuant to § 4214(1) of the Public Health Law, the person in charge of the hospital, hospice or other health care facility shall notify the person in charge of the City mortuary within 48 hours of death and prior to the autopsy. Under such circumstances the filing of the certificate of death and confidential medical report may be postponed until 72 hours after death. The requirement of filing may be fulfilled by delivery of the certificate and confidential medical report to the person in charge of the City mortuary when the remains are removed from the hospital or other health care facility.

RESOLVED, that section 205.21 of Article 205 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be amended to read as follows:

§ 205.21 Burial, Cremation, Holding and Transportation of Human Remains; Disposition Permit.

- (a) When a death or termination of pregnancy occurs in the City, the human remains shall not be buried, cremated, temporarily held as an interim disposition pursuant to [subdivision (b) of] 24 RCNY Health Code § 205.13**(b)** or transported out of the City unless an appropriate disposition permit has been issued by the Department. However, remains may be transported out of the city to a contiguous county in the State without obtaining prior authorization to transport from the Department. In such cases, an appropriate disposition permit must still be issued by the Department prior to burial, cremation, interim disposition or transportation to any other area. Such burial, cremation, interim disposition or transportation permit shall not be issued until a certificate of death or termination of

pregnancy and, if required, a confidential medical report have been filed with the Department. A permit to bury, temporarily hold or cremate human remains or to transport them out of the City includes authorization to remove the remains from the place of death or termination of pregnancy pursuant to 24 RCNY Health Code § 205.19(a). If remains are to be transported out of the City by common carrier, they shall be prepared in such manner as to comply with the State Sanitary Code.

(b) [. . .]

(3) The person to whom an interim disposition permit has been issued in accordance with [subdivision (b) of] 24 RCNY Health Code § 205.13**(b)** shall maintain a permanent record of each of the human remains being temporarily held which shall include the permit number[,] and shall maintain the original interim disposition permit until such time it is surrendered to the Department in exchange for a final burial, cremation or transportation permit.

[. . .]