



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

**Notice of Public Hearing and Opportunity to Comment on
Proposed Amendments**

What are we proposing? The New York City Department of Health and Mental Hygiene (“Department” or “DOHMH”) is proposing that the Board of Health (“Board”) amend Section 207.05 of Article 207 the New York City Health Code to allow a new birth certificate to be filed when the license to practice medicine of an attending physician listed on a given birth certificate has been surrendered or revoked by the New York State Office of Professional Medical Conduct.

When and where is the hearing? The Department will hold a public hearing on the proposed rule amendment. The public hearing will take place at 10AM until 12PM on May 28, 2019. The hearing will be at the offices of the New York City Department of Health and Mental Hygiene at 42-09 28th Street, Room 8-25, Long Island City, NY 11101-4132.

How do I comment on the proposed amendments? Anyone can comment on the proposed amendments by:

- **Website.** You may submit comments to the Department through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You may email comments to resolutioncomments@health.nyc.gov.
- **Mail.** You may mail comments to:

New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, CN 31
Long Island City, NY 11101-4132

- **Fax.** You may fax comments to Department at 347-396-6087.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling at 347-396-6078 or 347-396-6116. You can also sign up in the hearing room before the hearing begins on May 28, 2019. You can speak for up to three minutes.

Is there a deadline to submit comments? Written comments must be received on or before May 28, 2019 at 5:00 pm.

What if I need assistance to participate in the hearing? You must tell the Office of Legal Affairs if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at 347-396-6078. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by May 14, 2019.

This location is wheelchair-accessible.

Can I review the comments made on the proposed amendment? You may review the comments made online at <http://rules.cityofnewyork.us/> on the proposed amendments by going to the website at <http://rules.cityofnewyork.us/>. All written comments and a summary of the oral comments received by the Department will be made available to the public within a reasonable period of time by the Department's Office of the General Counsel.

What authorizes the Department to make this amendment? Section 558(b), (c), and (g) of the Charter empowers the Board to amend the Health Code and to include in the Health Code all matters to which the Department's authority extends. Section 558(c) of the Charter authorizes the Board to include in the Health Code provisions related to maintaining a registry of births and deaths. Section 556(c)(1) of the Charter authorizes the Department to supervise and control the registration of births and deaths. Section 1043(a) of the Charter grants rulemaking powers to the Department.

Where can I find the Department's rules? The Department's rules and the Health Code are located in Title 24 of the Rules of the City of New York.

What laws govern the rulemaking process? The Department must satisfy the requirements of Section 1043 of the Charter when adding or amending rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

The proposed amendment of these provisions were not included in the Department's regulatory agenda for this fiscal year because it was not contemplated when the Department published the agenda.

Statement of Basis and Purpose of Proposed Rule

On average, the Correction and Amendments unit within Vital Records receives 50,000 requests annually for changes to birth certificates. Each request requires a corrections application delineating the specific changes requested. Section 207.05 of the Health Code currently allows the Department to seal a birth certificate and file a new one with corrected information only in certain instances. Court orders are required for some parentage amendments and other amendments not specifically delineated in the health code and require extensive analysis of fact pattern. Approximately 12,000 of these amendments must be done through court order each year.

Recent city council legislation resulted in a local law, pursuant to Intro 1308, that amends the administrative code of the city of New York to require redaction from birth certificates, upon request, of the names of physicians whose licenses have been surrendered or revoked. In order to implement this law, the Department proposes an amendment to Article 207 of the Health Code to allow a mechanism for this type of redaction that does not require a court order. This amendment would require the filing of a new certificate without the name of the attending physician and the sealing of the original certificate. The new certificate would not contain an attendant field and would not indicate correction history.

The proposed 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 a paragraph (6) of subdivision (a) of section 207.05 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, be added to read as follows:

(6) A request is made by either (i) a person who is at least 18 years old and named as the registrant on a birth certificate, or that person’s legal representative or (ii) the parent or legal representative of a person under the age of eighteen and named as the registrant on a birth certificate to remove the name of the attending physician listed from the certificate, and the requester submits proof that that physician’s license to practice medicine in the State of New York has been surrendered or revoked by the New York State Office of Professional Medical Conduct. Any issuance of this certificate subsequent to such request and submission shall not contain the identity of the attending physician.

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Rules Governing Issuance of New Birth Records

REFERENCE NUMBER: DOHMH-100

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Ashley A. Pettaway
Mayor's Office of Operations

April 10, 2019
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Issuance of New Birth Records

REFERENCE NUMBER: 2019 RG 022

RULEMAKING AGENCY: Department of Health and Mental Hygiene

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: April 10, 2019