

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

**Notice of Adoption of Amendments to
Article 207 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 (“Board of Health”) by section 558 of the Charter, a notice of intention (“NOI”) to amend Article 207 of the New York City Health Code (“the Health Code”) was published in the New York City Record on November 4, 2022, and a public hearing was held on December 6, 2022. No one testified at the hearing and two written comments were received. There were comments made by members of the Board of Health when the NOI was introduced at the Board meeting on October 25, 2022, regarding the documentation required to make birth certificate changes. For the reasons discussed below, no changes have been made to the proposed amendment to Article 207 based on these comments and at its meeting on February 9, 2023, the Board of Health adopted the following resolution.

Statement of Basis and Purpose of Proposed Rule

Section 207.01 of the Health Code allows the Department to correct or amend birth certificates of minors upon application of their parents, surviving parent, or legal guardians in limited instances. Pursuant to Section 207.01, all applications must be accompanied by supporting documentation and no application may be approved unless the Department is satisfied that the evidence submitted shows the true facts and that an error or omission was made at the time of preparing and filing of the certificate or confidential medical report of birth or that the name of a person named in a birth certificate has been changed pursuant to court order. New corrected birth certificates are issued when the change is made within one year of birth.

This seemingly simple process for a name change does not work for the roughly 75 to 80 child welfare cases a year where parental rights have not been terminated and a child has been placed in the care and custody of the Administration for Children’s Services (ACS), such as when a child has been placed in foster care. Currently, Section 207.01 does not allow ACS or any other social services agency to apply for a name change in these circumstances. The need for a birth certificate correction is most pressing when a placeholder such as “Baby Boy,” “Girl,” or “No Name Given,” is on a birth certificate, because without an actual first name, it is difficult to establish the child’s identity for services, including Social Security and Medicaid coverage. Social services agencies must therefore obtain a court order to permit the Department to correct a birth certificate, which adds time and expense to an already lengthy process of placing children in foster care families, while also delaying the children’s access to social services.

To address this issue, at the October 25, 2022 Board of Health meeting the Department proposed amending Section 207.01(a) to allow a government agency — ACS in New York City, the Office of Children and Family Services in the rest of New York State, and social services agencies of other states

and localities — to apply for corrections to a birth certificate, on behalf of a child, when a court has granted care and custody of that child to the agency. During this meeting, Board of Health members expressed concern that these changes might be made without appropriate documentation of the child’s name. In response, the Department notes that Health Code section 207.01(b) currently requires that “[e]very application shall be accompanied by supporting documentary evidence,” which requires the requesting agency to provide evidence as to why the name requested is the proper one to use, and the Department reviews this documentation to ensure its accuracy. In response to another Board member’s query, the Department notes that this amendment will apply to children already in foster care. Therefore, the Board of Health is adopting the amendments as proposed so that the needs of children in the foster care system will more readily and seamlessly be met.

Statutory Authority

Section 558(b) and (c) of the Charter empower 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.

The amendments are as follows:

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“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 subdivision (a) of section 207.01 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, is amended to read as follows:

- (a) The Commissioner or the Commissioner’s designee may approve the amendment of a birth, termination of pregnancy or death certificate, or of a confidential medical report of birth, spontaneous termination of pregnancy or death. Application shall be made on a form furnished by the Department. Application for amendment of a birth certificate [shall] may be made only by the person whose birth certificate is to be corrected if such person is 18 years of age or over, or by the parents or surviving parent of a child that is deceased, [or] by the legal guardian of the person whose birth certificate is to be corrected, or by an agency in accordance with subdivision (e) of this section [or by the person] if such person is under 18 years of age[or over]. Application for amendment of a spontaneous termination of pregnancy shall be made by the parents or surviving parent. Application for amendment of a death certificate, or of a confidential medical report of death shall be made by the person in control of disposition as defined in Article 205 of this Code or by the person identified on the death certificate as providing the personal particulars pursuant to Article 205 of this Code.

RESOLVED, that a new subdivision (e) be added to section 207.01 of Article 207 of the New York City Health Code, set forth in Title 24 of the Rules of the City of New York, to read as follows:

(e) When a court of competent jurisdiction has remanded or placed a child to the care and custody of the Administration for Children's Services or an authorized government social services agency outside of the City of New York responsible for the welfare of a child, as determined by the department, such agency may make an application for correction of a first name when none or a placeholder was provided on the original birth certificate.