

Death Certificates

Effective date: 10/23/13

Pursuant to the authority vested in the Commissioner of Health by Article 41 of Public Health Law, Section 35.4 of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Paragraph (2) of subdivision (b) of Section 35.4 is amended as follows:

\* \* \*

(b) A certified copy of a death certificate or a certified transcript of a death certificate shall be issued only:

(1) pursuant to the order of a court of competent jurisdiction on a showing of necessity,  
or

(2) upon specific request of the spouse, sibling, children, or parents of the deceased or the lawful representative of such persons; or

\* \* \*

## NOTICE OF CONSENSUS RULEMAKING

### **Statutory Authority:**

The Department and Commissioner are authorized to promulgate this regulatory revision pursuant to Public Health Law (PHL) Article 41, Vital Records. PHL Section 4100 (1) provides in relevant part that the Department shall, except in the City of New York, have charge of the registration of deaths and provide instructions for obtaining records of death. In addition, PHL Section 4100 (2) specifies that the Commissioner shall have general supervision of vital statistics, except in the City of New York.

Chapter 130 of the Laws of 2012 amended PHL Section 4174, effective July 18, 2012, to authorize the DOH to issue death certificates upon the request of a sibling of the deceased.

### **Basis:**

The proposed amendment merely conforms State regulation to State law (PHL Section 4174) as revised by Chapter 130 of the Laws of 2012. Section 35.4(b)(2) of Title 10 NYCRR, as currently written, is out of compliance with PHL Section 4174. Since Chapter 130 of the Laws of 2012 became effective July 18, 2012, the Department sent an email to each municipal registrar which informed the affected parties of the law change and the impact on their operations. Registrars were directed to ensure that siblings be able to receive copies of their siblings death certificates and were provided with a copy of the law. They are currently required to be in compliance.

## **JOB IMPACT STATEMENT**

No Job Impact Statement is required pursuant to Section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent, from the nature of the proposed amendment, that it will not have a substantial adverse impact on jobs and employment opportunities.

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### **Categories and Numbers Affected:**

These provisions will apply to the 1500 registrars in New York State.

**Regions of Adverse Impact:**

This rule is not expected to cause any regions in the State to have an adverse job impact.

**Minimizing Adverse Impact:**

There will be no adverse impact to this proposal because registrars are already required to be in compliance with Chapter 130 of the Laws of 2012 which amended the PHL and which became effective on July 18, 2012.