

ARTICLE 203
TERMINATION OF PREGNANCY

§203.01 Definitions.

§203.03 Reporting terminations of pregnancy.

§203.05 Preparation and certification of certificates.

§203.07 Confidential medical report of spontaneous termination of pregnancy and certificate of induced termination of pregnancy; not subject to or compelled disclosure inspection.

§203.09 Disposal of conceptus.

§203.01 Definitions.

When used in this title:

- (a) "Termination of pregnancy" means the expulsion or extraction of a conceptus, regardless of the duration of pregnancy, other than a live birth as defined in §201.01(a), and includes fetal death.
- (b) "Spontaneous termination of pregnancy" means the unplanned termination of a pregnancy, including but not limited to an ectopic pregnancy, or such a termination associated with a cesarean section, or an operative procedure unrelated to pregnancy resulting in an inadvertent termination.
- (c) "Induced termination of pregnancy" means the purposeful interruption of an intrauterine pregnancy with the intention other than to produce a live-born infant and which does not result in a live birth. This definition excludes management or prolonged retention of products of conception following a spontaneous termination of pregnancy.
- (d) "Conceptus" means the product of any termination of pregnancy, regardless of its duration, including a hydatidiform mole, fetal tissue or other evidence of pregnancy recovered by operative or other procedure, but not including a live birth as defined in §201.01(a).
- (e) "Licensed health care practitioner" means a physician or other person licensed or authorized pursuant to the New York State Education Law, or other applicable law, to perform terminations of pregnancy.

§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
 - (3) If a licensed health care practitioner attends at or after the event 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.
- (b) The person required to report a termination of pregnancy pursuant to subdivision (a) of this section shall file:
- (1) A certificate of induced termination of pregnancy for an induced termination of pregnancy; or
 - (2) A certificate of spontaneous termination of pregnancy, including a confidential medical report, for a spontaneous termination of pregnancy; provided that a medical examiner, when required to report pursuant to paragraph (a)(4) of this section, shall file a certificate of spontaneous termination of pregnancy only.
- (c) A certificate of termination of pregnancy required by this section shall be filed within 24 hours after the event if a permit to dispose of the conceptus pursuant to Article 205 of this Code is required or requested, and in all other cases a certificate of termination of pregnancy shall be filed within five business days after the event with any office maintained and designated by the Department for such purposes.
- (d) In circumstances where the issuance of a disposition permit pursuant to Article 205 of this Code is required or requested and a person required to report a termination of pregnancy pursuant to subdivision (a) of this section does not file 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 Article 205 of this Code 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.
- (e) All spontaneous terminations of pregnancy occurring at or en route to hospitals or other facilities that report births electronically to the Department pursuant to Article 201 of this Code, all induced terminations of pregnancy occurring at hospitals or other facilities reporting 100 or more induced terminations of pregnancy per year, and all terminations of pregnancy reported by the office of chief medical examiner, shall be reported to the Department electronically by means of computer programs specified and provided or otherwise authorized for use by the Department. In circumstances where the issuance of a disposition permit pursuant to Article 205 of this Code is required or requested, and a person required to report a termination of pregnancy pursuant to subdivision (a) of this section files a report thereof electronically, a funeral director or undertaker authorized to take charge of the remains, or the person in charge of the City mortuary when said mortuary files an application for a disposition permit, shall also file, within 72 hours following the termination of pregnancy, the application for such a permit electronically by means of computer programs specified and provided or otherwise authorized for use

by the Department. All hospitals or other facilities that are not required to report terminations of pregnancy electronically pursuant to this subdivision may, at their election and upon approval by the Department, implement an electronic reporting system, or continue to report terminations of pregnancy on approved paper forms. However, once a hospital or facility has commenced reporting electronically, such hospital or facility may not report on paper forms unless otherwise authorized by the Department.

- (f) All facilities required or electing to report electronically pursuant to subdivision (e) of this section shall apply to the Department prior to implementing any electronic reporting system and, upon approval by the Department, shall make electronic reports only in such manner and on computer programs prescribed and provided by or otherwise authorized by the Department. Written paper reports may be submitted for a limited period of time only in the case of extenuating circumstances, temporary equipment failure, or prolonged inability to access the electronic reporting system, and only with the specific approval of the Department. In addition, the Department may, on its own initiative, allow written, paper reports to be submitted if electronic reporting is not possible in a particular circumstance, as a result of a deficiency in the Department's electronic reporting system. The Department may, in addition, require summary, cumulative or periodic reports on such reporting schedule as it may deem necessary.
- (g) The person required to report a termination of pregnancy or to file an application for a disposition permit shall provide to the Department information that was required to be reported, but that was not so reported, within five business days of that person receiving the information.
- (h) Upon a request by the Department for additional information that may be necessary to complete, clarify or verify the information required to be reported, the person required to report a termination of pregnancy or to file an application for a disposition permit shall provide such information to the Department within five business days of the request.

§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 § 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 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 was treated. 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 was treated. 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.

- (b) The certificates specified in § 203.03(b), except for certificates filed electronically pursuant to § 203.03(e), shall be prepared on forms prescribed by the Board and furnished by the Department. Computer programs specified and provided or otherwise authorized for use by the Department for electronic filing shall be reflective of the forms prescribed by the Board except to the extent that differences may be necessary or warranted in order to accommodate electronic formatting. The person preparing the certificate shall enter all information required by the appropriate form. When a termination of pregnancy occurs in a hospital or en route thereto, the information shall be taken from the hospital record of the case. If worksheets are used to prepare certificates of termination of pregnancy and confidential medical reports, if any, the worksheets shall be ones provided by the Department or in a form approved by the Department. If individuals other than a physician, licensed midwife, registered professional nurse, certified nurse practitioner or registered physician assistant use such worksheets, then such individuals shall be trained or approved by the Department. The person preparing the certificate and confidential medical report, if any, or such person's employer, shall retain such worksheets for a period of three years from the date of the event, and shall, upon request, make such worksheets available to the Department for inspection.

§203.07 Confidential medical report of spontaneous termination of pregnancy and certificate of induced termination of pregnancy; not subject to or compelled disclosure inspection.

- (a) The confidential medical report of a spontaneous termination of pregnancy shall be confidential and not subject to compelled disclosure or to inspection by persons other than the Commissioner or authorized personnel of the Department, except in a criminal action or criminal proceeding, or for official purposes by a federal, State, county or municipal agency charged by law with the duty of detecting or prosecuting crime. The Commissioner or the Commissioner's designee may, however, approve the inspection of such medical reports for scientific purposes.
- (b) Within the context of this section, scientific purposes shall mean epidemiologic surveillance and investigation by a governmental public health agency, research, or the compilation of statistics relating factors bearing on disease incidence, prevalence, mortality or treatment.
- (c) The certificate of induced termination of pregnancy shall be confidential and not subject to compelled disclosure or to inspection by persons other than the Commissioner or authorized personnel of the Department.

§203.09 Disposal of conceptus.

Every conceptus that has completed 24 or more weeks of gestation shall be disposed of in a manner provided for human remains generally and in accordance with a disposition permit issued pursuant to Article 205 of this Code. 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 Article 205 of this Code, upon request.