



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

**Notice of Public Hearing and Opportunity to Comment on Proposed Amendments
of the New York City Health Code**

What are we proposing? The New York City Department of Health and Mental Hygiene (“Department”) is proposing that the Board of Health amend Sections 3.25 and 11.11 regarding disclosure of information. The amendment would further restrict which information may be disclosed.

When and where is the hearing? The Department will hold a public hearing on the proposed rule. The public hearing will take place at 3:00 p.m. on July 21, 2025. The hearing will be conducted by video conference accessible via internet or telephone:

- **Internet.** To participate in the public hearing, enter to register at this Webex URL: <https://nycdohmh.webex.com/nycdohmh/j.php?MTID=mfff0f529b6d49a3cfe0ecd4409dbe8e6>
If prompted to provide an event number or password, please enter the following:
Webinar number: **2344 055 0324**, Password: **mJ34JMkG4V4 (65345654** from phones)
- **Phone:** For access, dial: (408) 418-9388 or (646) 992-2010; then please enter the following Access code: **234 405 50324**

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

- **Website:** You can submit comments to the Department through the NYC Rules website at <https://rules.cityofnewyork.us>.
- **Email:** You can email written comments to resolutioncomments@health.nyc.gov.
- **Mail:** You can mail written comments to:
New York City Department of Health and Mental Hygiene
Gotham Center, 42-09 28th Street, 14th Floor, CN 30
Long Island City, NY 11101-4132
- **Fax:** You can fax written comments to the Department at 347-396-6087.
- **Speaking at the hearing:** Anyone who wants to comment on the proposed amendments at the public hearing must sign up to speak. You can sign up before the hearing by calling Svetlana Burdeynik at 347-396-6078 or 347-396-6116; or by emailing resolutioncomments@health.nyc.gov before the hearing begins at 3:00 p.m. on July 21, 2025. While you will be given the opportunity during the hearing to indicate that you would like to comment, we prefer that you sign up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit written comments? Written comments must be received on or before 5:00 PM on July 21, 2025.

What if I need assistance to participate in the hearing? You must tell the Department's Office of General Counsel if you need a reasonable accommodation of a disability at the hearing, including if you need a sign language interpreter. You can tell us by e-mail or by mail at the addresses given above. You may also tell us by telephone at 347-396-6078. Please give us advance notice to allow sufficient time to arrange the accommodation. Please tell us by July 7, 2025.

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

What authorizes the Department to make these amendments? Sections 556, 558 and 1043 of the New York City Charter ("Charter") authorize the Department to make these proposed amendments.

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

What rules govern the rulemaking process? The Department must meet the requirements of Section 1043 of the Charter when amending the Health Code. This notice is made according to the requirements of Section 1043 of the Charter. These amendments were not included in the Department's most recent regulatory agenda because they were not contemplated when the Department published the agenda.

Statement of Basis and Purpose of Proposed Rule

Numerous laws and regulations in New York City aim to protect confidentiality and privacy of information. The Health Code consists of various provisions requiring the confidentiality of information maintained by the Department, which has a long history of safeguarding personal health information. The Department seeks to continuously review these requirements. Based on its most recent review, the Department has identified two specific provisions of the Health Code as warranting amendments to further strengthen the confidentiality of information and to ensure consistency within these sections of the Health Code.

Specifically, this proposed rule would amend Health Code Sections 3.25 and 11.11. Section 3.25 addresses inspection of records and proceedings of the Department. Section 11.11 addresses the confidentiality of reports and records submitted to the Department. These amendments are being proposed because the Department is committed to strengthening the protection of the confidentiality of the personal information it collects and the individuals it serves, as well as making its code consistent with other applicable provisions of law.

Statutory Authority

The authority for this proposed amendment is found in Sections 556, 558 and 1043 of the Charter. Section 556 of the Charter provides the Department with jurisdiction to protect and

promote the health of all persons in the City of New York. Sections 558(b) and (c) of the Charter empower the Board to amend the Health Code and to include all matters to which the Department's authority extends. Section 1043 grants the Department rule-making authority.

Underlined language is new.

Language in [brackets] is to be deleted.

Ellipses (***) indicate unamended text.

RESOLVED, that subdivisions (a), (b) and (c) of section 3.25 of Article 3 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, are amended to read as follows:

(a) Except as prohibited, required or authorized by this Code, including this section, or other applicable law:

(1) Records of the Department containing [individually identifiable] identifying information, or other information that the Department reasonably believes may endanger the health or safety of any person if disclosed, shall be confidential and used only by authorized personnel of the Department or its authorized agents. For the purposes of this section the term "[individually identifiable] identifying information" [shall mean any information or data which by itself or in combination with any other publicly available information could, in the opinion of the Department, be used to identify a particular individual] has the meaning set forth in section 23-1201 of the Administrative Code;

(2) A person, upon submission of a legally appropriate written request or consent, and proof of identity satisfactory to the Department if deemed necessary by the Department, may inspect, or obtain a copy of, or authorize [his or her] their attorney or representative to inspect or obtain a copy of a file, record, report, proceeding of the Department or any other document, whether oral, written, electronic, visual or in any other form which contains [individually identifiable] identifying information pertaining to such person; provided that [individually identifiable] identifying information pertaining to another person is not disclosed. A person who owns, manages, operates or has any legal interest in a premises may, in the manner set forth above, have access to Departmental reports and records of the Department's environmental inspections pertaining to such premises; provided that said records are redacted of any [personal] identifying information concerning the occupants of such premises. A request to inspect or consent to disclose [shall] must be made in writing and [shall] must describe the information to be inspected or disclosed. Inspections of records shall be permitted during times and at such places as the Department may determine. A written authorization for an attorney or representative to inspect or obtain copies of Department records [shall] must be made on forms provided or a format approved by the Department.

(b) Subdivision (a) of this section shall not prevent the Commissioner or authorized personnel of the Department from [furnishing] disclosing appropriate information to a physician or institution providing examination or treatment to a person suspected of or affected with a disease

or condition, to an agency approved by the Department for prevention, treatment or social care, or to any person when necessary for the protection of health as determined by the Commissioner or their designee. Only the minimum information determined to be necessary by the Commissioner or their designee to accomplish the intended purpose will be disclosed. A person, institution or agency to whom such information is [furnished] disclosed or to whom access to records has been given, shall not divulge any part thereof so as to disclose [individually identifiable] identifying information of the person to whom such information or record relates, except insofar as such disclosure is necessary for the treatment of such person or for the protection of the health of others. Notwithstanding [the subdivision] subdivisions (a) [or] and (b) of this section, no such access or disclosure shall occur if such is otherwise prohibited by this Code or other applicable law.

(c) No person shall violate any term or condition of a written data use agreement, protocol or other understanding upon which the Department has relied to grant access to [individually identifiable] identifying information or data.

RESOLVED, that section 11.11 of Article 11 of the New York City Health Code, as set forth in Title 24 of the Rules of the City of New York, is amended to read as follows:

§ 11.11 Confidentiality of Reports and Records.

(a) (1) Epidemiological and surveillance reports and records of cases, contacts, carriers, suspect cases or suspect contacts of diseases and conditions of public health interest that are reported to the Department, including but not limited to additional information it may obtain, develop or prepare in the course of an epidemiological investigation, shall be confidential and shall not be subject to inspection by persons other than authorized personnel or agents of the Department or by the State Department of Health pursuant to the State Sanitary Code. The disclosure of such reports, records or information shall not be compelled. No individual's medical or [individually identifiable] identifying information shall be disclosed from any epidemiological report or record, and no disclosure thereof may be compelled, regarding any individual who is the subject of, or identified in, such a report, or regarding an individual or entity that has made such a report. For purposes of this section the term “identifying information” has the meaning set forth in section 23-1201 of the Administrative Code.

(2) Epidemiological or surveillance information that is disseminated as aggregated statistical data shall be prepared as determined by the Department in a manner that does not reasonably enable re-identification of any person whose personal health or [individually identifiable] identifying information is contained in such data.

(b) Notwithstanding subdivision (a) hereof, to the extent permissible under applicable law and in accordance with the provisions of 24 RCNY Health Code § 3.25, the person to whom any such epidemiological and surveillance report or record relates, or in the case of a minor or incompetent such person's parent, legal guardian or custodial guardian, may sign a written consent authorizing the Commissioner to disclose such person's own patient information or

records of diagnosis or treatment. The consensual disclosure of such information shall only be made to the person to whom the information relates, or to such person's current treating medical provider, or to a court upon receipt of such a written consent and a court order from that court. A disclosure pursuant to this subdivision shall not include the identity of persons who reported the case, investigative or epidemiological information related to the case or the identities and epidemiologic, surveillance and laboratory information on the person's contacts or other suspect or confirmed cases, contacts or carriers associated with the same epidemiologic investigation.

(c) Subdivisions (a) and (b) of this section shall not prevent the Commissioner or authorized personnel of the Department from [furnishing] disclosing what the Department determines to be appropriate information to a physician or institution providing examination or treatment to a person suspected of or affected with a disease or condition of public health interest, to an agency approved by the Department for prevention, treatment or social service, or to any person when necessary for the protection of public health as determined by the Commissioner or their designee. Only the minimum information determined by the Commissioner or their designee to be necessary [for] to accomplish the intended purpose shall be disclosed. A person, institution or agency to whom such information is disclosed or to whom access to records has been given shall not divulge any [part thereof so as to disclose the identity] identifying information of the person to whom such information or record relates, except insofar as such disclosure is necessary for the treatment of a case or carrier or for the protection of the health of others.

(d) (1) Information contained in the immunization registry created pursuant to 24 RCNY Health Code § 11.07 and the children's blood lead registry established pursuant to 24 RCNY Health Code § 11.09 shall be confidential and not subject to inspection by persons other than the Commissioner or authorized personnel or agents of the Department and persons or agencies authorized herein. The Department may disclose information contained in said immunization registry in accordance with the provisions of § 2168 of the New York State Public Health Law, and the regulations promulgated pursuant thereto. Information contained in the children's blood lead registry may be disclosed and the Department may permit access to such information by a person, authorized by law to administer or order a blood test, who is treating or testing the individual to whom said information relates, or to a public health agency for the protection of health. The Department may also disclose what [it] the Commissioner or their designee considers appropriate and necessary information from such immunization or children's blood lead registries to a person or agency concerned with immunization or blood lead testing of children authorized by the Department when (i) such person or agency provides sufficient identifying information satisfactory to the Department to identify the individual to whom such information relates and (ii) such disclosure is in the best interests of such individual and, in the case of a child, [his or her] their family, or will contribute to the protection of the public health, as determined by the Commissioner or their designee. Notwithstanding the foregoing, the person to whom any immunization or blood lead test record relates, or [his or her] their custodial parent, guardian, or other person in parental or custodial relation to such person, may, by signing a written consent, authorize the Commissioner to disclose such record.

(2) A person, institution or agency to whom such immunization or blood lead registry information is furnished or to whom access to records or information has been given, shall not divulge any [part thereof so as to disclose the identity] identifying information of the person to whom such information or record relates, except insofar as such disclosure is necessary for the protection of the health of the person or other person, as determined by the Commissioner or their designee.

**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 Relating to Disclosure of Individually Identifying Information

REFERENCE NUMBER: 2025 RG 047

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
Senior Counsel

Date: May 28, 2025

**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 Relating to Disclosure of Individually Identifying Information

REFERENCE NUMBER: DOHMH-162

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/ Francisco X. Navarro
Mayor’s Office of Operations

May 28, 2025
Date