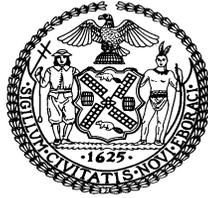


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The Council of the
City of New York

**BRIEFING PAPER OF THE HUMAN SERVICES DIVISION
Catherine Torres, Deputy Chief of Staff**

**And
THE INFRASTRUCTURE DIVISION
Marcel Van Ooyen, Deputy Chief of Staff**

**Committee on Health
Hon. Christine Quinn, Chair**

**Jointly with
Select Committee on Technology in Government
Hon. Gale A. Brewer, Chair**

February 5, 2003

PROPOSED INT. NO. 198-A:

By The Speaker (Council Member Miller) and Council Members Brewer, Quinn, Avella, Clarke, Katz, Koppell, Lopez, Martinez, Monserrate, Moskowitz, Nelson, Reyna, Sears, Stewart and Weprin

TITLE:

A Local Law to amend the administrative code of the city of New York, in relation to the creation and implementation of an electronic death registration system.

ADMINISTRATIVE CODE:

Adds a new section 17-183 to chapter one of title 17.



Background

On Wednesday, February 5, 2003, the Committee on Health, jointly with the Select Committee on Technology in Government, will hold a hearing on Proposed Int. No. 198-A, which would amend the New York City Administrative Code in relation to the creation and implementation of an electronic death registration system. The New York City Department of Health and Mental Health (DOHMH) and the Metropolitan Funeral Directors Association were invited to testify.

Proposed Int. No. 198-A

Proposed Int. No. 198-A would amend title 17 of the New York City Administrative Code by adding a new section 17-184 entitled “Electronic death registration system.”

Electronic Death Registration System Requirements

Proposed Int. No. 198-A would require DOHMH to develop and maintain an electronic death registration system (EDRS). The EDRS would be required to employ an internet-technology based, electronic method of collecting, storing, recording, transmitting, amending and authenticating the information necessary to complete the registration of a death or fetal death. The EDRS would be required to be capable of producing certified certificates and amended certificates for deaths and fetal deaths, as well as all necessary collateral documentation required during the death registration and certification process, including burial, transportation, cremation and disinterment permits. The EDRS would be required to be capable of transmitting all registration documents to remote local printers or fax machines for printing. Proposed Int. No. 198-A would not require persons authorized to use the EDRS to authenticate their identity through the use of a biometric device, or to depend on a fixed computer terminal to use the EDRS.¹

¹ Proposed Int. No. 198-A would allow only responsible persons, defined as any individual, governmental body or corporate entity authorized by DOHMH, to use the EDRS. (Proposed Int. No. 198-A, subdivision a). Proposed Int. No. 198-A would further allow any person authorized by DOHMH to utilize the EDRS to designate one or more employees to input information



The EDRS would also be required to include the following features:

- An electronic registration process for persons authorized to use the system;
- Password access;
- Common internet browser software which would permit identity authentication, secure data entry, processing and transmission through a remote computer site;
- An electronic payment system by which payments would be transmitted to DOHMH;
and
- Electronic signature capability.

(see Proposed Int. No. 198-A, subdivision b)

Under Proposed Int. No. 198-A, EDRS would be the sole means of completing a death or fetal death registration in New York City. However, Proposed Int. No. 198-A would allow paper-based death registration to occur in the event of an emergency declared by the Commissioner of DOHMH or the Mayor. (see Proposed Int. No. 198-A, subdivision c)

EDRS Training

Proposed Int. No. 198-A would require that the Commissioner of DOHMH develop an EDRS training curriculum and to implement a training program based on that curriculum to all persons authorized to use the EDRS. Proposed Int. No. 198-A would require that the EDRS training program be offered at various locations throughout New York City at a price reasonably related to the cost of providing the training and at least four times a year. The EDRS training program could be conducted by DOHMH or by a private entity (e.g., health care facilities and relevant professional associations and societies) pursuant to an agreement with the department. Under Proposed Int. No. 198-A, at the end of

into the EDRS. However, such designees would not be able to authenticate inputted information. (Proposed Int. No. 198-A, subdivision e).



an EDRS training program, a person completing the training would receive certification from DOHMH that he or she successfully completed EDRS training. (*see* Proposed Int. No. 198-A, subdivision d)

EDRS Access

Proposed Int. No. 198-A would require that EDRS be accessible through remote computer terminals, such as those located in a funeral home or hospital. However, Proposed Int. No. 198-A would also require DOHMH to provide computer workstations to allow persons authorized to use EDRS to access the system. (*see* Proposed Int. No. 198-A, subdivision e)

Violations

Proposed Int. No. 198-A contains a violation provision, whereby any violation of Proposed Int. No. 198-A or any DOHMH rules promulgated pursuant to proposed §17-184 would, upon conviction, be punishable by a fine minimum fine of \$200 for the first offense and \$1000 for each subsequent offense. (*see* Proposed Int. No. 198-A, subdivision f)

Promulgation of Rules

Proposed Int. No. 198-A would require DOHMH to promulgate rules for the implementation of EDRS, including a schedule of fees relating to the issuance of permits and certified death or fetal death certificates within 180 days of the effective date of the proposal. Such schedule of fees must be reasonably related to the cost of operating and maintaining the EDRS. (*see* Proposed Int. No. 198-A, subdivision g)

EDRS Advisory Panel

Proposed Int. No. 198-A would require that an EDRS advisory panel be established within DOHMH. The purpose of the EDRS advisory panel would be to advise the Commissioner of DOHMH on issues relating to the design, implementation and maintenance the EDRS. The EDRS advisory panel would consist of the Commissioner of DOHMH (or his or her designee), Chief Medical Examiner (or



his or her designee), and four additional members as follows: (two appointed by the Mayor, two appointed by the Speaker of the City Council). With respect to the four additional members:

- Two would be New York City hospital representatives; one from a private hospital, one from the Health and Hospitals Corporation; and
- Two would be representatives representing the interests of funeral directors or undertakers operating within New York City.

All EDRS advisory panel members would serve on the panel without compensation. The Commissioner of DOHMH would serve as the chair of the EDRS such advisory panel. Proposed Int. No. 198-A would also require the EDRS advisory panel to meet at least four times each year. The EDRS advisor panel would be disbanded 36 months following the effective date of Proposed Int. No. 198-A. (*see* Proposed Int. No. 198-A, subdivision h)

Effective dates

If adopted and signed, Proposed Int. No. 198-A would take effect immediately. However, subdivision c of Proposed Int. No. 198-A, which relates to the EDRS as being the sole means of registering deaths and fetal deaths in New York City, would take effect on January 1, 2004 with respect to the boroughs of Manhattan and Staten Island, and on July 1, 2004 with respect to the boroughs of Brooklyn, the Bronx and Queens. Furthermore, subdivision d of Proposed Int. No. 198-A, which relates to the development of an EDRS training curriculum and the implementation of a training program, would take effect on July 1, 2003. Finally, subdivision e of Proposed Int. No. 198-A, which relates to the provision of EDRS workstations by DOHMH, would take effect on January 1, 2004. (*see* Proposed Int. No. 198-A, section 3).



Overview of the Electronic Death Registration System

Approximately 63,000 deaths occur in New York City each year. Each death must be registered and certified by DOHMH before a burial may take place. In addition, certified death certificates are necessary to begin the probate process for families of the deceased. Currently, DOHMH utilizes a paper-based death registration system for the filing, correction and issuance of certified copies of death certificates. This paper-based system requires doctors to complete a death certificate that is subsequently delivered to DOHMH for certification; if any errors are detected the original doctor must be located and the certificate re-filed. The creation and implementation of an electronic death registration system (EDRS) in New York City would allow doctors and authorized hospital staff to electronically input information necessary to complete a death certificate and send such certificate electronically to DOHMH. Major components of the web-based system include electronic filing, registration, issuance, archiving, amending, reporting, analysis, financial management and administration. DOHMH has concluded that the major benefits of the system will include immediate computer-based error checking and feedback, quick manual review by DOHMH and feedback, printing of the burial permit at the funeral home, electronic submission of amendments and electronic requests for copies of certificates. However, despite the seemingly positive benefits associated with an EDRS, and despite an effort in the late 1990s by DOHMH to implement such a system in New York City, only New Jersey currently operates a fully-functional electronic death registration system, which operates on a limited basis only. DOHMH currently estimates that New York City will have a fully functional EDRS by calendar year 2004 that processes 20 percent of death registrations.



Rationale for an Electronic Death Registration System

In January 1997, a report entitled *Toward an Electronic Death Registration System in the United States: Report of the Steering Committee to Reengineer the Death Registration Process* was prepared by a task force representing federal agencies - the National Center for Health Statistics, the Social Security Administration, and the National Association for Public Health Statistics and Information Systems (NAPHSIS) – and professional organizations representing funeral directors, physicians, medical examiners, coroners, hospitals, medical records professionals, and vital records and statistics officials. The committee examined in detail the feasibility of developing electronic death registration in the United States. The conclusion of the committee was that the introduction of automated registration processes in the States is a viable means to resolve several historical and continuing problems in the process of death registration.

Death certificates are used in the United States for administrative and public health purposes. For nearly a century the States have managed centralized vital records agencies to collect, process and archive death certificates. Death records are universally recognized as the primary source of death information. However, registration processes remain labor-intensive, employ disparate and limited automated procedures, and require several professionals at different locations to complete each of the more than 2.3 million death certificates registered nationally each year.

Since the origination of civil vital records registration in the United States, death certificate completion has mostly remained the provenance of funeral directors, with physicians and frequently medical examiners and coroners providing cause and manner of death information. Manual certificate preparation, including the personal delivery of records to physicians for signature, extensive and costly travel by funeral director staff to file certificates, and labor-intensive processing of paper records locally and at state Vital Records offices, all contribute to slowing registration and delay the availability of death data.



Furthermore, even though each state has laws requiring the registration of death records within a specific time period, a significant number of certificates are not appropriately filed, may contain incorrect or inconsistent entries, or are not finalized until many weeks after the death occurred. In addition, incomplete death certificates and coroner cases may take weeks or even months to resolve. These late-filed, partially completed or inaccurate death certificates are not acceptable for use by family members, nor do they meet federal administrative needs or satisfy the information demands of local, state and federal agencies. In fact, they can adversely affect mortality statistics, which are routinely produced by state and federal agencies. Automating death registration processes is therefore seen as the key to addressing these long-standing issues.

The Death Registration Process in New York City

Unlike any other City in the United States, New York City is an independent vital records jurisdiction. It is independent of New York State, has its own vital events certificates, and reports its data directly to the National Center for Health Statistics and the Social Security Administration (SSA). New York City is also unusual in its system for registering and processing death certificates. Despite its high volume, the Health Department processes all death certificates and disposition permits in real time. Deaths must be reported within 72 hours of occurrence, and are filed in at two locations: the Health department's headquarters building in lower Manhattan and, only recently, at a second office in downtown Brooklyn. DOHMH's Vital Records Office at its Manhattan headquarters operates a 24/7 death registration office at which all funeral directors or their representatives file death certificates, obtain permits and pay for and receive certified copies of death certificates.² Certificates are coded for underlying cause of death and demographic information and are keyed within one business day.

² Over ninety percent of the certified copies of death certificates in New York City are issued at the time of filing



New York City also has an Office of Chief Medical Examiner (OCME) that operates facilities in each of the City's five boroughs. OCME certifies approximately 15 percent of all of the death certificates in the City, and uses a death certificate form that is unique to its office. The majority of certificates – 85 percent – are not medical examiner cases and are filed on the non-medical examiner death certificates by physicians, hospitals, and nursing homes. The OCME must, however, authorize all cremations.

The current death registration process in New York City is completely paper-based until the certificates are coded and keyed. The certificate (certificate accompanied by a confidential medical report) is not keyed in its entirety. Instead, only that information necessary for public health analyses and for creating a search index is currently keyed by DOHMH. According to DOHMH, because of the limited information currently available in the electronic file, certified copies must be produced from the paper copies

An EDRS would eliminate the existing paper-based system for filing, correcting and issuing certified copies of death certificates. Currently, funeral directors, who file the majority of death certificates in the City, must obtain a completed death certificate from a doctor, and then bring it to 125 Worth Street or to DOHMH's recently opened branch in downtown Brooklyn (However, in a December 30, 2002 letter to DOHMH, funeral directors reported that extensive delays are now common at the new Brooklyn burial desk because of computer coordination problems between DOHMH's two offices).³ Funeral directors typically encounter long lines and must wait, sometimes up to two hours, to have a clerk approve a death certificate. If it is not approved – because an error is detected or the clerk on duty does not find the completed certificate satisfactory – the funeral director

³ Letter to Dr. Thomas Frieden, MD, DOHMH, from Maryann Carroll, Metropolitan Funeral Directors Association, Inc., December 30, 2002



must track down the doctor to make the changes to the certificate, and then return to the DOHMH office to have the revised certificate approved.

Finally, families typically encounter problems during the death registration process: families need an original certified copy of a death certificate to give to each and every financial institution or organization involved in the process of settling an estate or a deceased person's financial affairs. When they underestimate the number of certified copies they need, as often happens, it can take three to six weeks to obtain additional copies. Moreover, if families find that the death certificate issued by DOHMH contains an error, they must wait two to six months to get a corrected certificate, according to funeral directors. As a result, families are too often left waiting weeks, if not months, to begin or complete the difficult process of probate.

The Decade-Long Effort to Implement an EDRS in New York City

In December 1994, the Metropolitan Funeral Directors Association (MFDA) approached the City about the need to automate the death registration process. To that end, the MFDA, the New York State Funeral Directors Association, and New Jersey Funeral Directors Association paid more than \$60,000 for a feasibility study and plan to implement an EDRS in their respective jurisdictions. The MFDA presented the study to the City and proposed forming a public-private partnership with New York City to pay for, develop and implement the project. According to the MFDA, the City rejected the proposed partnership and decided to pursue the development of an EDRS alone. And although DOHMH eventually formed a formal advisory committee on EDRS, composed of funeral directors and other interested parties, the committee was not active after its initial inception in the late 1990s.⁴

According to a July 1, 2000 article in *The New York Times*, the New York State Department of Health (NYSDOH) contracted with Sybase, Inc. in 1997 to develop an EDRS, at a cost of

⁴ Letter to Dr. Neal Cohen, M.D., Commissioner, New York City Department of Health, from Council Member A. Gifford Miller, April 3, 2001.



approximately \$200,000. While NYSDOH's system still has not yet been implemented, New Jersey's Department of Health obtained a copy of NYSDOH's EDRS software in July 1999. At a cost of about \$250,000, New Jersey, who, as a State, has a commensurate number of deaths compared to New York City, modified the software to conform to its death registration needs. Within six months of receiving the software, New Jersey began using the EDRS and now has it working in seven of 21 counties.⁵

In New York City, however, the effort to implement an EDRS ran into difficulties that quickly derailed the project. In August 1999, DOHMH awarded IBM a contract to develop and implement an EDRS; however, by July 2000, the system had been tested, crashed successively, and was determined to be essentially inoperable. On January 19, 2001, DOHMH issued an RFP for the development of a new EDRS. The RFP contained no reference to the system developed by IBM. According to a report from New York City Comptroller Alan Hevesi, "it appears that DOHMH is starting from scratch with a new vendor to develop a workable EDRS."⁶

According to the Comptroller's report:

- DOHMH violated the City's and State's competitive procurement processes when it contracted directly with IBM;
- DOHMH inappropriately used an existing state contract meant for computer maintenance, not development, to secure IBM's services for the development of a new software system. State officials confirmed that the scope of the contract used by DOHMH does not encompass hardware purchases or large software development projects, such as the EDRS project. Moreover, in April 2001, an employee of DOHMH was asked to generate an after-the-fact justification for DOHMH's use of the State contract. In an e-mail obtained by the Comptroller's Office, the employee noted the difficulty of performing such a task;
- The City paid IBM \$10.3 million for the failed EDRS and other projects, based on a series of purchase orders reviewed by the Comptroller's Office. According to this information, the bulk of the \$10.3 million was spent on EDRS alone, and the other projects referenced in the purchase orders were mere "window dressing" to conceal the true costs of the EDRS project. The Comptroller concluded that the exact amount spent on the EDRS project is unknown because

⁵ Katherine E. Finkelstein, "Technical and other Difficulties Delay Plan for Online Death Certificates," *New York Times*, July 1, 2000, Section B., p. 1.

⁶ "Hevesi: NYC Department Of Health Squandered Millions On Failed Electronic Death Registration System," Press Release, Office of the New York City Comptroller, August 8, 2001.



DOHMH failed to follow appropriate contracting practices as well as City and State competitive guidelines for information technology projects;

- Finally, the Comptroller's report also found that even as the City's Health Department was searching for a new bidder, it continued to pay IBM for the failed project and that internal department memorandums also showed staff members proposing to alter existing requisitions to make them appear compliant with City guidelines.

In a written statement, DOHMH called the Comptroller's report "erroneous," and said that the total amount paid to I.B.M. was \$3.1 million. For this amount, the statement said, IBM created a prototype system that was to be used by the new vendor. DOHMH also disputed the Comptroller's report charge that it had not followed proper contracting guidelines in hiring IBM for the project [**note:** the Comptroller's Office is currently conducting a comprehensive audit of the EDRS contract].⁷

Unfortunately, the handling of the EDRS contract was not the first time the Comptroller's Office found problems with DOHMH's Vital Records Department. During an audit in 1995, the Comptroller's Office found a backlog of 12,545 unprocessed mailed-in requests for birth and death certificates, along with the accompanying undeposited checks and money orders that totaled approximately \$272,000. About half of the mail-in requests were found unopened and the other half was stored in boxes that were located on desks or the floor of the Vital Records Office. During a follow-up audit in 1997, auditors found that DOHMH corrected the problems associated with processing mail-in requests.⁸

EDRS: Current Status

DOHMH is currently engaged in a contract to build an EDRS. The system is expected to be operational in 2004 – serving 20 percent of death registrations. DOHMH is rolling out the EDRS in essentially two phases: in the first stage next year, the EDRS will only operate for OCME cases (15

⁷ Letter to Office of the New York City Comptroller from Larry Wolf, New York City Department of Health, April 22, 2002.

⁸ "Hevesi: NYC Department Of Health Squandered Millions On Failed Electronic Death Registration System," Press Release, Office of the New York City Comptroller, August 8, 2001.



percent of total death registrations in New York City), with a limited number of funeral homes. After a “satisfactory period of operation... the system should be ready for testing with hospital based certificates.” After this phase, DOHMH expects a “full roll-out” to the institutions and individuals that interact with DOHMH: over 150 hospitals and nursing homes, OCME, 1,000 funeral directors, several hundred funeral homes, and several thousand physicians.⁹

Significantly, DOHMH has said that electronic filing of deaths will not be mandatory. Under the current contract, the EDRS will provide for a paper-only process, similar to the current process, as well as for electronic filing by a physician and paper filing by a funeral director, or paper-filing by a physician and paper filing by a funeral director, or paper filing by a physician and electronic-filing by a funeral director. Finally, DOHMH’s current plans for the EDRS include the mandatory use of biometric devices for physicians – such as fingerprint recognition pads.

EDRS Link with the Social Security Administration

Given DOHMH’s unique relationship with SSA, DOHMH plans to operate the EDRS with a direct electronic connection to the Agency. The goal of such a network, identified by DOHMH and SSA, would be to allow the City to submit the information to the federal level in a matter of days instead of months. The intent is to verify that a deceased person’s Social Security number and name match so that any benefits being paid to the deceased can be stopped. According to Tony Trenkle, SSA’s Administration’s Deputy Associate Commissioner for Electronic Services, “The idea is to leverage these efforts with other efforts to build some better electronic relationships in the vital statistics area so that users can query states for information and receive information. It is an infrastructure that a number of agencies could use.” Ultimately, the federal government expects to save millions of dollars each year by terminating benefits in a timelier manner.

⁹ Request for Proposal DOHMH, 2001 – Scope of Project.



New Jersey's EDRS

The Bureau of Vital Statistics and Registration within the New Jersey Department of Health and Senior Services has developed and implemented an Internet-based death registration system – the first fully functional, operational EDRS in the country. Taking as a starting point the design of the pilot New York State Electronic Death Registration System, and with the assistance of the Sybase Corporation, New Jersey produced a working application for New Jersey – for approximately \$250,000 in capital costs and \$250,000 in annual operating costs.

The New Jersey system enables the parties responsible for death registration to conduct their business from a PC connected to the Internet. According to State officials, since the application is browser-based, the PC requirements are minimal; more important to the process, however, is a fast modem and a reliable Internet Service Provider.

Approximately 1,500 people have been trained and have been provided access to New Jersey's EDRS. This includes 67 staff members in 8 hospitals, 894 physicians, 26 medical examiners, 321 funeral directors and 188 local registrars. And while the use of the system is currently voluntary, legislation has been proposed to make its use mandatory [**note:** the New Jersey legislation, currently before the full New Jersey State Assembly, does not currently call for the use of a biometric device]. State officials estimate that the system will have as many as 7,500 users when it is completely rolled-out. This figure includes 1,300 local registrars, 1,800 funeral directors and the physicians and medical examiners that certify deaths in New Jersey.¹⁰

Currently, the States of Minnesota, California, New Hampshire, and Vermont are developing EDRS's. Interestingly, California's Department of Health is working with a vendor to evaluate whether physicians will be able to certify a faxed cause of death using a telephonic voice-recognition

¹⁰ Testimony of Luke Hilgendorff, Manager, Systems Support, New Jersey Department of Health and Senior Services before the New York City Council's Committee on Health and Select Committee on Technology in Government, February 5, 2003.



authentication system. And, like New Jersey, California is currently considering a bill that would require the State to implement a mandatory electronic death registration system by January 1, 2005.

Finally, despite the lead that New Jersey has taken on EDRS, and despite the City's past problems with EDRS, SSA is currently engaged in a contract with the New York City DOHMH to use our City's EDRS as a national model for other states to follow. SSA, the National Center for Health Statistics, NAPHSIS, as well as five other States are currently involved in a national workshop, sponsored by DOHMH, that will develop an EDRS model from New York City's implementation experience. According to DOHMH, "the model will be freely shared with all interested jurisdictions and vendors and should ultimately speed implementation of EDR systems nationwide."¹¹

¹¹ EDRS National Team Hosted by New York City, New York City Department of Health and Mental Hygiene, November 4, 2002.