



STATE OF NEW YORK  
UNIFIED COURT SYSTEM  
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A. GAIL PRUDENTI  
Chief Administrative Judge

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## MEMORANDUM

July 9, 2014

To: All Interested Persons

From: John W. McConnell

Re: Proposed amendment of 22 NYCRR §§ 207.4-a(e)(6) & (7) and 207.4-aa(d) (Uniform Rules for Surrogate's Court), relating to filing and e-filing of death certificates.

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The Surrogate's Court Advisory Committee has recommended the amendment of the Uniform Rules for Surrogate's Court relating to electronic filing (22 NYCRR §§ 207.4-a(e)(6) & (7) and 207.4-aa(d)) (Exh. A). The proposed amendments would require, in e-filed proceedings, a hard copy filing of the "paper original certified death certificate" along with the will, "unless the court in its discretion accepts an e-filed death certificate with no hard copy." According to the Committee, "the decision whether to allow the electronic filing of a death certificate is appropriately a matter for the Surrogate's discretion, but this discretion should be utilized *only* in the unusual case." The Committee believes that "in *every* case there should be a hard copy version filed that is the official document," and "disapproves any practice allowing a blanket dispensing of the hard copy death certificate whether in a paper case or an e-filed case.

Persons wishing to comment on this proposal should e-mail their submissions to [rulecomments@nycourts.gov](mailto:rulecomments@nycourts.gov) or write to: John W. McConnell, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11th Fl., New York, New York 10004. **Comments must be received no later than September 8, 2014.**

**All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.**

**EXHIBIT A**

2014

1. The Filing and e-Filing of Death Certificates  
(22 NYCRR 207.4-a(e)(6) & (7); 22 NYCRR 207.4-aa(d))

This proposal recommends a revision of the rule regarding the filing of the hard copy death certificate in e-filed proceedings in Surrogate's Court. In particular, the revision would add the language "*The paper original certified death certificate shall be filed with the will unless the court in its discretion accepts an e-filed death certificate with no hard copy.*"

The Committee agrees that the decision whether to allow the electronic filing of a death certificate is appropriately a matter for the Surrogate's discretion, but this discretion should be utilized *only* in the unusual case. It is further the opinion of the Committee that in *every* case there should be a hard copy version filed that is the official document. Thus, the Committee disapproves any practice allowing a blanket dispensing of the hard copy death certificate whether in a paper case or an e-filed case.

Proposal:

§ 202.4-a(e)(6) & (7)

(6) If an e-filer submits a petition for probate for which the court does not already have in its possession the original purported last will and testament and any codicils thereto being offered for probate, the e-filer shall file directly with the court the paper original purported last will and testament and any codicils thereto and a hard copy of the death certificate certificate, attorney certified if required by the court, within two business days of the date of e-filing. Except as otherwise directed by the court, process shall not issue nor shall a fiduciary be appointed before

the original purported last will and testament, any codicils thereto and the appropriate death certificate are filed with the court. The paper original certified death certificate shall be filed with the will unless the court in its discretion accepts an e-filed death certificate with no hard copy.

(7) If an e-filer submits a petition for administration the e-filer shall file a hard copy of the death certificate, attorney certified if required by the court, directly with the court within two business days of the date of e-filing. Except as otherwise directed by the court, process will not issue nor shall a fiduciary be appointed before the appropriate death certificate is filed with the court. The paper original certified death certificate shall be filed with the will unless the court in its discretion accepts an e-filed death certificate with no hard copy.

§ 202.4-aa(d)

(d) Clerk of Court Not to Accept Hard Copies of Documents for Filing Where Electronic Filing Is Required. The clerk of the court shall refuse to accept for filing hard copies of documents sought to be filed in proceedings where such documents are required to be filed electronically. The paper original certified death certificate shall be accepted for filing with the will unless the court in its discretion accepts an e-filed death certificate with no hard copy.