

**NOTICE OF PROPOSED EXPEDITED RULEMAKING**  
**TITLE 9. HEALTH SERVICES**  
**CHAPTER 6. DEPARTMENT OF HEALTH SERVICES**  
**COMMUNICABLE DISEASES AND INFESTATIONS**  
**ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND**  
**INFESTATIONS**

**PREAMBLE**

- 1. Article, Part, of Section Affected (as applicable) Rulemaking Action**

R9-6-303	Amend
R9-6-305	Amend
R9-6-338	Amend
R9-6-361	Amend
R9-6-362	Amend
R9-6-381	Amend
- 2. Citations to the agency's statutory authority for the rulemaking to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing Statutes: A.R.S. §§ 36-132(A)(1) and 36-136(G)  
Implementing Statutes: A.R.S. § 36-136(I)(1)
- 3. Citations to all related notices published in the Register as specified in R1-1-409(A) that pertain to the record of the proposed expedited rulemaking:**

Notice of Docket Opening: 29 A.A.R. 618, February 24, 2023
- 4. The agency's contact person who can answer questions about the rulemaking:**

Name: Ken Komatsu, State Epidemiologist  
Address: Arizona Department of Health Services  
Public Health Preparedness  
150 N. 18th Ave., Suite 100  
Phoenix, AZ 85007-3248  
Telephone: (602) 364-3587  
Fax: (602) 364-3199  
E-mail: Ken.Komatsu@azdh  
or  
Name: Stacie Gravito, Office Chief

Address: Arizona Department of Health Services  
Office of Administrative Counsel and Rules  
150 N. 18th Ave., Suite 200  
Phoenix, AZ 85007  
Telephone: (602) 542-1020  
Fax: (602) 364-1150  
E-mail: Stacie.Gravito@azdhs.gov

**5. An agency's justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S. § 41-1027, to include an explanation about the rulemaking:**

Arizona Revised Statutes (A.R.S.) § 36-136(I)(1) requires the Arizona Department of Health Services (Department) to make rules defining and prescribing “reasonably necessary measures for detecting, reporting, preventing, and controlling communicable and preventable diseases.” The Department has adopted in Arizona Administrative Code (A.A.C.) Title 9, Chapter 6, Article 3, rules related to control measures for communicable diseases and infestations. As part of a five-year-review report for 9 A.A.C. 6, Article 3, the Department identified several issues with the current rules and proposed making changes to the rules. After receiving rulemaking approval according to A.R.S. § 41-1039(A), the Department is clarifying the rules through expedited rulemaking, under A.R.S. § 41-1027, consistent with the five-year review report. The Department believes that making these changes will improve effectiveness and reduce regulatory burden.

**6. A reference to any study relevant to the rule that the agency reviewed and proposes either to rely on or not to rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

The Department did not review or rely on any study for this rulemaking.

**7. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state.**

Not applicable

**8. The preliminary summary of the economic, small business, and consumer impact:**

Under A.R.S. § 41-1055(D)(2), the Department is not required to provide an economic, small business, and consumer impact statement.

**9. The agency's contact person who can answer questions about the economic, small business, and consumer impact statement:**

Not applicable

**10. Where, when, and how persons may provide written comment to the agency on the proposed expedited rule under A.R.S. § 41-1027(C):**

Close of record: Monday, April 3, 2023, 4:00 p.m.

A person may submit written comments on the proposed expedited rules no later than the close of record to either of the individuals listed in item 4.

**11. All agencies shall list other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:**

**a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

The rule does not require the issuance of a regulatory permit. Therefore, a general permit is not applicable.

**b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:**

Federal laws do not apply to the rule.

**c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

No such analysis was submitted.

**12. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rules:**

None

**13. The full text of the rule follows:**

## **TITLE 9. HEALTH SERVICES**

### **CHAPTER 6. DEPARTMENT OF HEALTH SERVICES - COMMUNICABLE DISEASES AND INFESTATIONS**

#### **ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS**

##### Section

- R9-6-303. Isolation, Quarantine, Exclusion, and Other Control Measures
- R9-6-305. Control Measures for Multi-drug-resistant Organisms
- R9-6-338. Gonorrhea
- R9-6-361. Novel Coronavirus (e.g., SARS or MERS)
- R9-6-362. Pediculosis (Lice Infestation)
- R9-6-381. Syphilis

### **ARTICLE 3. CONTROL MEASURES FOR COMMUNICABLE DISEASES AND INFESTATIONS**

#### **R9-6-303. Isolation, Quarantine, Exclusion, and Other Control Measures**

- A.** When a local health agency is required by this Article to isolate or quarantine an individual or group of individuals, the local health agency:
1. Shall issue a written order:
    - a. For isolation or quarantine and other control measures;
    - b. To each individual or group of individuals and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian, except as provided in subsection (A)(2);
    - c. That specifies:
      - i. The isolation or quarantine and other control measure requirements being imposed, including, if applicable, requirements for physical examinations and medical testing to ascertain and monitor each individual's health status;
      - ii. The identity of each individual or group of individuals subject to the order;
      - iii. The premises at which each individual or group of individuals is to be isolated or quarantined;
      - iv. The date and time at which isolation or quarantine and other control measure requirements begin; and
      - v. The justification for isolation or quarantine and other control measure requirements, including, if known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
    - d. That may provide information about existing medical treatment, if available and necessary to render an individual less infectious, and the consequences of an individual's failure to obtain the medical treatment; and
  2. May post the written order in a conspicuous place at the premises at which a group of individuals is to be isolated or quarantined if:
    - a. The written order applies to the group of individuals, and
    - b. It would be impractical to provide a copy to each individual in the group.
- B.** A local health agency may issue a written order for additional control measures:

1. Except as provided in subsection (A)(2), to each affected individual, group of individuals, or person and, for each individual who is a minor or incapacitated adult, the individual's parent or guardian;
  2. That specifies:
    - a. The control measure requirements being imposed, including, if applicable, requirements for:
      - i. Being excluded from working as a food handler, caring for patients or residents in a health care institution, or caring for children in or attending a school or child care establishment;
      - ii. Avoiding other locations where the individual or an individual in the group of individuals may pose a health risk to other individuals;
      - iii. Observing airborne precautions, droplet precautions, or contact precautions and the methods by which the individual shall comply with the requirement;
      - iv. Prophylaxis or immunization, as applicable, as an alternative to or to reduce the length of exclusion;
      - v. Physical examinations and medical testing to ascertain and monitor the individual's health status; or
      - vi. Not creating a situation where additional individuals may be exposed to the communicable disease;
    - b. The identity of each individual, group of individuals, or person subject to the order;
    - c. The date and time at which the control measure requirements begin; and
    - d. The justification for the control measure requirements, including:
      - i. If known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
      - ii. If applicable, the possible consequences of the individual, group of individuals, or person failing to follow the recommendations of the Department or the local health agency to control the spread of the communicable disease; and
  3. That may provide information about the disease, existing medical treatment, if applicable, and the consequences of an individual's failure to comply with the order.
- C.** Within 10 calendar days after the issuing of a written order described in subsection (A) or (B), if a local health agency determines that isolation, quarantine, or other control measure requirements

need to continue for more than 10 calendar days after the date of the order, the local health agency shall file a petition for a court order that:

1. Authorizes the continuation of isolation, quarantine, or other control measure requirements pertaining to an individual, a group of individuals, or a person;
2. Includes the following:
  - a. The isolation, quarantine, or other control measure requirements being imposed, including, if applicable, requirements for physical examinations and medical testing to ascertain and monitor an individual's health status;
  - b. The identity of each individual, group of individuals, or person subject to isolation, quarantine, or other control measure requirements;
  - c. If applicable, the premises at which each individual or group of individuals is isolated or quarantined;
  - d. The date and time at which isolation, quarantine, or other control measure requirements began; and
  - e. The justification for isolation, quarantine, or other control measure requirements, including, if applicable and known, the disease for which the individual or individuals are believed to be cases, suspect cases, or contacts; and
3. Is accompanied by the sworn affidavit of a representative of the local health agency or the Department attesting to the facts asserted in the petition, together with any further information that may be relevant and material to the court's consideration.

**D.** A local health agency that files a petition for a court order under subsection (C) shall provide notice to each individual, group of individuals, or person identified in the petition according to the Arizona Rules of Civil Procedure, except that notice shall be provided within 24 hours after the petition is filed.

**E.** In the event of noncompliance with a written order issued under subsection (A) or (B), a local health agency may contact law enforcement to request assistance in enforcing the order.

**F.** If the Department determines that isolation, quarantine, or other control measure requirements are necessary, the Department, under A.R.S. § ~~36-136(G)~~ 36-136(H), may take any of the actions specified in subsections (A) through (E).

#### **R9-6-305. Control Measures for Multi-drug-resistant Organisms**

Case control measures:

1. A diagnosing health care provider or an administrator of a health care institution transferring a case with active infection or colonization of a bacterial or fungal disease, for which the agent is known to be a multi-drug-resistant organism, to another health care

provider or health care institution or to a correctional facility shall, either personally or through a representative, ensure that the receiving health care provider, health care institution, or correctional facility is informed that the ~~patient case~~ case is infected or colonized with a multi-drug-resistant organism and the type of isolation precautions being used for the case.

2. An administrator of the correctional facility transferring a case with active infection or colonization of a bacterial disease or fungal, for which the agent is known to be a multi-drug-resistant organism, to another correctional facility or to a health care institution shall, either personally or through a representative, ensure that the receiving correctional facility or health care institution is informed that the ~~individual case~~ case is infected or colonized with a multi-drug-resistant organism and the type of isolation precautions being used for the case.

#### **R9-6-338. Gonorrhea**

##### **A. Case control measures:**

1. For the prevention of gonorrheal ophthalmia, a physician, physician assistant, registered nurse practitioner, or midwife attending the birth of an infant in this state shall treat the eyes of the infant immediately after the birth with one of the following, unless treatment is refused by the parent or guardian:
  - a. Erythromycin ophthalmic ointment 0.5%<sub>12</sub>; or
  - b. ~~Tetracycline ophthalmic ointment 1%~~ If erythromycin ophthalmic ointment is not available, another appropriate antibiotic.
2. A local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for a gonorrhea case that seeks treatment from the local health agency.

**B. Contact control measures:** If an individual who may have been exposed to gonorrhea through sexual contact with a gonorrhea case seeks treatment for symptoms of gonorrhea from a local health agency, the local health agency shall comply with the requirements specified in R9-6-1103 concerning treatment and health education for the individual.

#### **R9-6-361. Novel Coronavirus (e.g., SARS or MERS)**

##### **A. Case control measures:**

1. ~~A~~ In consultation with the Department or the applicable local health agency, a diagnosing health care provider or an administrator of a health care institution, either personally or through a representative, shall isolate and institute both airborne precautions and contact precautions for a novel coronavirus case or suspect case, including a case or suspect case

of severe acute respiratory syndrome or Middle East respiratory syndrome, until evaluated and determined to be noninfectious by a physician, physician assistant, or registered nurse practitioner or otherwise advised by the Department or the applicable local health agency.

2. A local health agency shall:

- a. Upon receiving a report under R9-6-202 of a novel coronavirus case or suspect case, notify the Department within 24 hours after receiving the report and provide to the Department the information contained in the report;
- b. In consultation with the Department, ensure that isolation and both airborne precautions and contact precautions have been instituted for a novel coronavirus case or suspect case to prevent transmission, unless otherwise advised by the Department;
- c. Conduct an epidemiologic investigation of each reported novel coronavirus case or suspect case, unless otherwise advised by the Department; and
- d. For each novel coronavirus case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D).

**B.** Contact control measures: A local health agency, in consultation with the Department, shall determine which novel coronavirus contacts will be quarantined or excluded, according to R9-6-303, to prevent transmission.

**R9-6-362. Pediculosis (Lice Infestation)**

**A.** Case control measures:

1. An administrator of a school or child care establishment, either personally or through a representative, ~~shall~~ may exclude a pediculosis case from the school or child care establishment until the case is treated with a pediculocide.
2. An administrator of a shelter shall ensure that a pediculosis case is treated with a pediculocide and that the case's clothing and personal articles are disinfested.

**B.** Contact control measures: An administrator of a school or child care establishment that ~~excludes~~ has knowledge of a pediculosis case from the school or child care establishment, either personally or through a representative, shall ensure that a parent or guardian of a child who is a contact is notified that a pediculosis case was identified at the school or child care establishment.

**R9-6-381. Syphilis**

**A.** Case control measures:

1. A syphilis case shall obtain serologic testing for syphilis three months, six months, and one year after initiating treatment, unless more frequent or longer testing is recommended by a local health agency.
  2. A health care provider for a pregnant syphilis case shall order serologic testing for syphilis at 28 to 32 weeks gestation and at delivery.
  3. A local health agency shall:
    - a. Conduct an epidemiologic investigation, including a review of medical records, of each reported syphilis case or suspect case, confirming the stage of the disease;
    - b. For each syphilis case, submit to the Department, as specified in Table 2.4, the information required under R9-6-206(D);
    - c. If the syphilis case is pregnant, ensure that the syphilis case obtains the serologic testing for syphilis required in ~~subsection~~ subsections (A)(1) and (A)(2); and
    - d. Comply with the requirements specified in R9-6-1103 concerning treatment and health education for a syphilis case.
  4. The operator of a blood bank, blood center, or plasma center shall notify a donor of a test result with significant evidence suggestive of syphilis, as required under A.R.S. § 32-1483 and 21 CFR 630.6.
- B.** Contact control measures: When a syphilis case has named a contact, a local health agency shall comply with the requirements specified in R9-6-1103 concerning notification, testing, treatment, and health education for the contact.
- C.** Outbreak control measures: A local health agency shall:
1. Conduct an epidemiologic investigation of each reported syphilis outbreak; and
  2. For each syphilis outbreak, submit to the Department the information required under R9-6-206(E).