

NOTICE OF PROPOSED EXPEDITED RULEMAKING
TITLE 9. HEALTH SERVICES
CHAPTER 6. DEPARTMENT OF HEALTH SERVICES –
COMMUNICABLE DISEASES AND INFESTATIONS

PREAMBLE

<u>1.</u>	<u>Article, Part, or Section Affected (as applicable)</u>	<u>Rulemaking Action</u>
	R9-6-1101	Amend
	R9-6-1102	Amend
	R9-6-1103	Amend
	R9-6-1104	Amend

2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific):**

Authorizing statutes: A.R.S. §§ 36-132(A)(1), 36-136(A)(7), 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 rule:**

Notice of Docket Opening: 29 A.A.R. 1581, July 14, 2023

4. **The agency’s contact person who can answer questions about the rulemaking:**

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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 An agency’s justification and reason why a rule should be made, amended, repealed or renumbered, under A.R.S § 41- 1027, to include an explanation about the rulemaking: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 “define and prescribe reasonably necessary measures for detecting, reporting, preventing and controlling communicable and preventable diseases.” A.R.S. § 13-1415 specifies requirements for court-ordered sexually transmitted disease (STD)-related testing. In accordance with A.R.S. § 41-1039(A), on June 13, 2023, the Governor’s Office approved the Department’s request to amend the STD-Related Testing and Notification rules to address issues identified in a five-year-review-report and make the rules more clear, concise, and understandable, including updating language from “sexually transmitted diseases” or “STD” to “sexually transmitted infections” or “STI.” In many cases, the terms “STI” and “STD” are used interchangeably, however using the terms “sexually transmitted infections” or “STI” are usually the more scientifically accurate terms, since not everyone with an infection develops symptoms, and there is technically no disease without symptoms. STIs are infections that have not yet developed into diseases and can include bacteria, viruses, or parasites such as pubic lice, usually transmitted during sexual activities through an exchange of bodily fluids or skin-to-skin contact where the infection is active. Nonsexual activities in which bodily fluids are exchanged can also transmit STIs. For example, people who share needles can infect each other with HIV. Sexually transmitted diseases, or STDs, on the other hand, result from STIs, suggesting a more serious problem. All STDs start as infections. Pathogens enter the body and begin multiplying. When these pathogens disrupt normal body functions or damage structures in the body, they become STDs. However, some STIs may never develop into diseases. According to the American Sexual Health Association, a growing number of public health experts believe the term STD can mislead people because “disease” suggests a person has an obvious medical problem, which is not always the case. The changes to be made during this rulemaking will not increase the cost of regulatory compliance, increase a fee, or reduce procedural rights of persons regulated, but reduce a burden due to outdated terminology without compromising health and safety. This rulemaking achieves the purpose prescribed in A.R.S. § 41-1027(A)(7) to implement a course of action proposed in a five-year-review report. The Department believes amending these rules will eliminate confusion 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 comments on the proposed rule:

Close of record: September 11, 2023, at 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:

There are no other matters prescribed by statutes applicable specifically to the Department or this specific rulemaking.

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 rules do not require the issuance of a permit, license, or agency authorization.

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:

There are no federal rules applicable to the subject of 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 rules follows:**

TITLE 9. HEALTH SERVICES
CHAPTER 6. DEPARTMENT OF HEALTH SERVICES –
COMMUNICABLE DISEASES AND INFESTATIONS
ARTICLE 11. ~~STD-RELATED~~ STI-RELATED TESTING AND NOTIFICATION

Sections

- R9-5-101. Definitions
- R9-6-1102. Health Care Provider Requirements
- R9-6-1103. Local Health Agency Requirements
- R9-6-1104. Court-ordered ~~STD-related~~ STI-related Testing

TITLE 9. HEALTH SERVICES

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

ARTICLE 11. ~~STD-RELATED~~ STI-RELATED TESTING AND NOTIFICATION

R9-6-1101. Definitions

In this Article, unless otherwise specified:

1. “Primary syphilis” means the initial stage of syphilis infection characterized by the appearance of one or more open sores in the genital area, anus, or mouth of an infected individual.
2. “Secondary syphilis” means the stage of syphilis infection occurring after primary syphilis and characterized by a rash that does not itch, fever, swollen lymph glands, and fatigue in an infected individual.
- ~~3. “Sexually transmitted diseases” means the same as in A.R.S. § 13-1415.~~
- ~~4. “STD” means a sexually transmitted disease or other disease that may be transmitted through sexual contact.~~
3. “Sexually transmitted infections” or “STI” means the same as “sexually transmitted diseases” in A.R.S. § 13-1415 or other diseases that may be transmitted through sexual contact.

R9-6-1102. Health Care Provider Requirements

When a laboratory report for a test ordered by a health care provider for a subject indicates that the subject is infected with an ~~STD~~ STI, the ordering health care provider or the ordering health care provider’s designee shall:

1. Describe the test results to the subject;
2. Provide or arrange for the subject to receive the following information about the ~~STD~~ STI for which the subject was tested:
 - a. A description of the ~~disease~~ infection or syndrome caused by the ~~STD~~ STI, including its symptoms;
 - b. Treatment options for the ~~STD~~ STI and where treatment may be obtained;
 - c. A description of how the ~~STD~~ STI is transmitted to others;
 - d. A description of measures to reduce the likelihood of transmitting the ~~STD~~ STI to others and that it is necessary to continue the measures until the infection is eliminated;
 - e. That it is necessary for the subject to notify individuals who may have been infected by the subject that the individuals need to be tested for the ~~STD~~ STI;

- f. The availability of assistance from local health agencies or other resources; and
- g. The confidential nature of the subject's test results;
- 3. Report the information required in R9-6-202 to a local health agency; and
- 4. If the subject is pregnant and is a syphilis case, inform the subject of the requirement that the subject obtain serologic testing for syphilis according to R9-6-381.

R9-6-1103. Local Health Agency Requirements

A. For each ~~STD~~ STI case, a local health agency shall:

- 1. Comply with the requirements in:
 - a. R9-6-317(A)(1) and (2) for each chancroid case reported to the local health agency, and
 - b. R9-6-381(A)(3)(a) through (c) for each syphilis case reported to the local health agency;
- 2. Offer or arrange for treatment for each ~~STD~~ STI case that seeks treatment from the local health agency for ~~symptoms of~~:
 - a. Chancroid,
 - b. Chlamydia infection,
 - c. Gonorrhea, or
 - d. Syphilis;
- 3. Provide information about the following to each ~~STD~~ STI case that seeks treatment from the local health agency:
 - a. A description of the ~~disease~~ infection or syndrome caused by the applicable ~~STD~~ STI, including its symptoms;
 - b. Treatment options for the applicable ~~STD~~ STI;
 - c. A description of measures to reduce the likelihood of transmitting the ~~STD~~ STI to others and that it is necessary to continue the measures until the infection is eliminated; and
 - d. The confidential nature of the ~~STD~~ STI case's test results; and
- 4. Inform the ~~STD~~ STI case that:
 - a. A chlamydia or gonorrhea case must notify each individual, with whom the chlamydia or gonorrhea case has had sexual contact within 60 days preceding the onset of chlamydia or gonorrhea symptoms up to the date the chlamydia or gonorrhea case began treatment for chlamydia or gonorrhea infection, of the need for the individual to be tested for chlamydia or gonorrhea; and

- b. The Department or local health agency will notify, as specified in subsection (B), each contact named by a chancroid or syphilis case.
- B. For each contact named by a chancroid or syphilis case, the Department or a local health agency shall:
 - 1. Notify the contact named by a chancroid or syphilis case of the contact's exposure to chancroid or syphilis and of the need for the contact to be tested for:
 - a. Chancroid, if the chancroid case has had sexual contact with the contact within 10 days preceding the onset of chancroid symptoms up to the date the chancroid case began treatment for chancroid infection; or
 - b. Syphilis, if the syphilis case has had sexual contact with the contact within:
 - i. 90 days preceding the onset of symptoms of primary syphilis up to the date the syphilis case began treatment for primary syphilis infection;
 - ii. Six months preceding the onset of symptoms of secondary syphilis up to the date the syphilis case began treatment for secondary syphilis infection; or
 - iii. 12 months preceding the date the syphilis case was diagnosed with syphilis if the syphilis case cannot identify when symptoms of primary or secondary syphilis began;
 - 2. Offer or arrange for each contact named by a chancroid or syphilis case to receive testing and, if appropriate, treatment for chancroid or syphilis; and
 - 3. Provide information to each contact named by a chancroid or syphilis case about:
 - a. The characteristics of the applicable ~~STD~~ STI,
 - b. The syndrome caused by the applicable ~~STD~~ STI,
 - c. Measures to reduce the likelihood of transmitting the applicable ~~STD~~ STI, and
 - d. The confidential nature of the contact's test results.
- C. For each contact of a chlamydia or gonorrhea case who seeks treatment from a local health agency for ~~symptoms of~~ chlamydia or gonorrhea, the local health agency shall:
 - 1. Offer or arrange for treatment for chlamydia or gonorrhea;
 - 2. Provide information to each contact of a chlamydia or gonorrhea case about:
 - a. The characteristics of the applicable ~~STD~~ STI,
 - b. The syndrome caused by the applicable ~~STD~~ STI,
 - c. Measures to reduce the likelihood of transmitting the applicable ~~STD~~ STI, and
 - d. The confidential nature of the contact's test results.

R9-6-1104. Court-ordered ~~STD-related~~ STI-related Testing

- A. A health care provider who receives the results of a test, ordered by the health care provider to detect an ~~STD~~ STI and performed as a result of a court order issued under A.R.S. § 13-1210, shall comply with the requirements in 9 A.A.C. 6, Article 8.
- B. A health care provider who receives the results of a test, ordered by the health care provider to detect an ~~STD~~ STI and performed as a result of a court order issued under A.R.S. § 32-3207, shall comply with the requirements in 9 A.A.C. 6, Article 9.
- C. When a court orders a test under A.R.S. § 13-1415 to detect a ~~sexually transmitted disease~~ sexually transmitted infection, the prosecuting attorney who petitioned the court for the order shall provide to the Department:
 - 1. A copy of the court order, including an identifying number associated with the court order;
 - 2. The name and address of the victim; and
 - 3. The name and telephone number of the prosecuting attorney or the prosecuting attorney's designee.
- D. A person who tests a specimen of blood or another body fluid from a subject to detect a sexually-transmitted disease as authorized by a court order issued under A.R.S. § 13-1415 shall:
 - 1. Be a certified laboratory, as defined in A.R.S. § 36-451;
 - 2. Use a test approved by the U.S. Food and Drug Administration for use in ~~STD-related~~ STI-related testing; and
 - 3. Report the test results for each subject to the submitting entity within five working days after obtaining the test results.
- E. A submitting entity that receives the results of a test to detect a ~~sexually transmitted disease~~ sexually transmitted infection that was performed as a result of a court order issued under A.R.S. § 13-1415 shall:
 - 1. Notify the Department within five working days after receiving the results of the test to detect a ~~sexually transmitted disease~~ sexually transmitted infection;
 - 2. Provide to the Department:
 - a. A written copy of the court order,
 - b. A written copy of the results of the test to detect a ~~sexually transmitted disease~~ sexually transmitted infection, and
 - c. The name and telephone number of the submitting entity or submitting entity's designee; and
 - 3. Either:
 - a. Comply with the requirements in:

- i. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
 - ii. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained; or
 - b. Provide to the Department or the local health agency in whose designated service area the subject is living:
 - i. The name and address of the subject;
 - ii. A written copy of the results of the test to detect a ~~sexually transmitted disease~~ sexually transmitted infection, if not provided as specified in subsection (E)(2)(b); and
 - iii. Notice that the submitting entity did not provide notification as specified in subsection (E)(3)(a).
- F. If the Department or a local health agency is notified by a submitting entity as specified in subsection (E)(3)(b), the Department or local health agency shall comply with the requirements in:
 - 1. R9-6-802(A)(2)(a) and (b), R9-6-802(D), and R9-6-802(F) through (J) for a subject who is not incarcerated or detained; and
 - 2. R9-6-802(B), R9-6-802(D) through (G), and R9-6-802(J) for a subject who is incarcerated or detained.
- G. When the Department receives the results of a test to detect a ~~sexually transmitted disease~~ sexually transmitted infection that was performed for a subject as a result of a court order issued under A.R.S. § 13-1415, the Department shall:
 - 1. Provide to the victim:
 - a. A description of the results of the test to detect the ~~sexually transmitted disease~~ sexually transmitted infection,
 - b. The information specified in R9-6-802(D), and
 - c. A written copy of the test results for the ~~sexually transmitted disease~~ sexually transmitted infection; or
 - 2. Provide to the local health agency in whose designated service area the victim is living:
 - a. The name and address of the victim,
 - b. A written copy of the results of the test to detect the ~~sexually transmitted disease~~ sexually transmitted infection, and
 - c. Notice that the Department did not provide notification as specified in subsection (G)(1).

H. If a local health agency is notified by the Department as specified in subsection (G)(2), the local health agency shall:

1. Provide to the victim:

- a. A description of the results of the test to detect the ~~sexually transmitted disease~~ sexually transmitted infection;
- b. The information specified in R9-6-802(D); and
- c. A written copy of the test results for the ~~sexually transmitted disease~~ sexually transmitted infection; or

2. If the local health agency is unable to locate the victim, notify the Department that the local health agency did not inform the victim of the results of the test to detect the ~~sexually transmitted disease~~ sexually transmitted infection.