

NEW YORK CITY DEPARTMENT OF HEALTH AND MENTAL HYGIENE
Notice of Public Hearing and Opportunity to Comment on
Proposed Amendment to Article 11 of the New York City Health Code

What are we proposing? The Department of Health and Mental Hygiene (“Department”) is proposing that the Board of Health (“Board”) amend Article 11 (Reportable Diseases and Conditions) of the New York City Health Code (“Health Code”) to add 2 new diseases to the list of diseases and conditions of public health interest that are reportable to the Department.

When and where is the hearing? The Department will hold a public hearing on these proposed rules. The public hearing will take place at 10:00AM to 12:00PM on Friday, July 21, 2023. 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=mb5b2b4ba4fe9ffda044b507304a2b76a>

If prompted to provide an event number or password, enter the following:

Event number: **2344 251 4975**, Password: **Health (432584)** from phones and video systems)

- **Phone:** For access, dial: **(408) 418-9388; (646) 992-2010** (New York City) and enter the following Access code: **234 425 14975**, Password: **Health (432584)**

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

- **Website:** You can submit comments to the Department through the NYC Rules website at <http://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
Office of General Counsel
Gotham Center, 42-09 28th Street, CN30
Long Island City, NY 11101-4132
Attn: Svetlana Burdeynik
- **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 rules 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 by emailing at resolutioncomments@health.nyc.gov before the hearing begins at 10:00AM on July 21, 2023. 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.

Is there a deadline to submit written comments? Written comments must be received on or before July 21, 2023 at 5:00 p.m.

Do you need assistance to participate in the hearing? You must tell us if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us

by telephone at 347-396-6078. You must tell us by July 7, 2023.

Can I review the comments made regarding the proposed rules? You may review the online comments made on the proposed rules 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 period of time after the hearing by the Department's Office of General Counsel.

Where can I find the Department's rules? The rules of the Department can be found in Title 24 of the Rules of the City of New York.

What rules govern the rulemaking process? The rulemaking process is governed by the requirements of New York City Charter §1043. The proposed rule amendment regarding alpha-gal syndrome reporting was included in the Department's fiscal year (FY) 2023 regulatory agenda, however the proposed rule amendment regarding carbapenem-resistant organisms reporting was not included in the FY 2023 regulatory agenda because it was not contemplated when the Department published the agenda.

Statement of Basis and Purpose

The Department's Division of Disease Control conducts disease surveillance and control activities for most of the diseases listed in Article 11 (Reportable Diseases and Conditions) of the Health Code. In addition, the Department is required to comply with various provisions of Part 2 of the New York State Sanitary Code, found in Title 10 of the New York Codes, Rules and Regulations, with respect to control of communicable diseases.

To conduct more effective, timely and complete disease surveillance and control, the Department is proposing that the Board amend Article 11 of the New York City Health Code as described below.

Alpha-Gal Syndrome Reporting

Alpha-gal syndrome (AGS) is an allergic reaction resulting from exposure to galactose- α -1,3-galactose (alpha-gal), a sugar molecule found in most mammalian meats (e.g., beef, pork, lamb) and products made from mammals (milk, milk products and gelatin). AGS can be a severe or life-threatening allergic reaction characterized by hives or an itchy rash, nausea, vomiting, diarrhea, heartburn, cough, shortness of breath, drop in blood pressure, severe stomach pain, dizziness or swelling of the lips, throat, tongue or eyelid. There is growing evidence suggesting that the increasing number of cases of AGS are triggered by the bite of a lone star tick (*Amblyomma*

americanum).^{1,2,3} The lone star tick has been found in limited areas of New York City as well as in New York State and other neighboring jurisdictions.

There is little epidemiological knowledge of the actual number of people with AGS due to the lack of reporting. Receiving laboratory reports of AGS test results will enable the Department to better understand the burden of disease and the demographic characteristics of the affected population. Preventing tick bites is the most impactful way of reducing the number of AGS cases and knowing in which neighborhoods cases reside will allow for targeted outreach and education. In 2021, the Council of State and Territorial Epidemiologists (CSTE) released a position statement that created a standardized case definition for AGS to enable improved surveillance by state and local health departments.

The Department is proposing that the Board amend Health Code §11.03(a) to require laboratories to report to the Department all positive AGS test results. Reporting of AGS test results will improve our knowledge about the incidence and prevalence of AGS and will help to inform tick prevention programming.

Carbapenem-Resistant Organisms (CROs) Reporting

Certain carbapenem-resistant organisms (CRO) were classified by the CDC in 2019 as an urgent threat to public health. Organisms resistant to carbapenems are often resistant to commonly used antibiotics, severely limiting treatment options. Carbapenem-resistant *Acinetobacter baumannii* (CRAB), a type of CRO, caused an estimated 8,500 infections in hospitalized patients and 700 deaths in the United States in 2017, the most recent year for which national data is available.⁴ In 2022, the CDC began investigating an outbreak of another CRO, carbapenem-resistant *Pseudomonas aeruginosa* (CRPA), associated with the use of artificial tears, involving at least 81 patients in 18 states (as of May 15, 2023), including New York City.⁵

CRO infections usually occur in hospitals, nursing homes and other high-acuity healthcare settings. Patients whose care requires devices like ventilators and catheters and those who are taking long courses of certain antibiotics are most at risk for CRO infections. The annual number of reported confirmed carbapenem-resistant Enterobacterales (CRE) (a type of CRO, and formerly known as carbapenem-resistant Enterobacteriaceae) cases among residents of New York City has steadily increased since CRE first became reportable in 2018, with a preliminary total of 1,165 in 2022.

¹ Centers for Disease Control and Prevention. Alpha-gal Syndrome. <https://www.cdc.gov/ticks/alpha-gal/index.html>.

² Mitchell, C.L., Lin, F.C., Vaughn, M. *et al.* Association between lone star tick bites and increased alpha-gal sensitization: evidence from a prospective cohort of outdoor workers. *Parasites Vectors* 13, 470 (2020). <https://doi.org/10.1186/s13071-020-04343-4>

³ Park Y, Kim D, Boorgula GD, De Schutter K, Smagghe G, Šimo L, Archer-Hartmann SA, Azadi P. Alpha-Gal and Cross-Reactive Carbohydrate Determinants in the N-Glycans of Salivary Glands in the Lone Star Tick, *Amblyomma americanum*. *Vaccines*. 2020; 8(1):18. <https://doi.org/10.3390/vaccines8010018>

⁴ CDC. Antibiotic Resistance Threats in the United States, 2019. Atlanta, GA: U.S. Department of Health and Human Services, CDC; 2019 <http://www.cdc.gov/drugresistance/Biggest-Threats.html>.

⁵ Outbreak of Extensively Drug-resistant *Pseudomonas aeruginosa* Associated with Artificial Tears, HAI, CDC. March 21, 2023. <https://www.cdc.gov/hai/outbreaks/crpa-artificial-tears.html>.

Though there is currently no requirement to report confirmed cases of CRPA and CRAB, some laboratories are voluntarily reporting these cases. One commercial laboratory reported 54 CRE, 40 CRPA and 97 CRAB cases in 2022.

An expansion of reporting to include CRPA, CRAB and other CRO will provide vital epidemiological information regarding the transmission and evolution of CRO; assist in the identification of cases and outbreaks to ensure rapid implementation of infection control precautions and improve our understanding of CRO incidence and prevalence in New York City to inform targeted public health action and combat continued spread. The CSTE recommends that jurisdictions enact requirements for reporting of certain CRO.⁶

The Department is proposing that the Board amend Health Code §11.03(a) to require laboratory reporting to the Department of carbapenem-resistant organisms (CRO) test results. CRE will now be removed as a separate condition from the disease reporting list because the proposed addition of CRO will subsume and include such condition. Requiring reporting of all CRO will improve our understanding of these organisms and help combat their spread.

Statutory Authority

The authority for these proposed amendments is found in Sections 556, 558 and 1043 of the New York City 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.

The proposed rule reads as follows:

Note: Matter in brackets [] is to be [deleted].

Matter underlined is new.

Asterisks (***) indicate unamended text.

“Shall” and “must” denote mandatory requirements and may be used interchangeably unless otherwise specified or unless the context clearly indicates otherwise.

Section I. RESOLVED, that subdivision (a) of section 11.03 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, be amended to include laboratory-confirmed alpha-gal syndrome and laboratory-confirmed carbapenem-resistant organisms to the list of Department-reportable diseases, in alphabetical order, and to remove laboratory-confirmed Enterobacteriaceae, carbapenem-resistant (CRE), from such list as this

⁶ Council of State and Territorial Epidemiologists. Infectious Disease Committee Position Statement 122-ID-04: P Change in Case Definition from Carbapenemase-Producing Carbapenem-Resistant Enterobacteriaceae (CP-CRE) to Carbapenemase-Producing Organisms (CPO). March 2022.

https://cdn.ymaws.com/www.cste.org/resource/resmgr/ps/ps2022/22-ID-04_CPO.pdf

condition would be subsumed and included under CRO reporting, and for such list to now read as follows:

§ 11.03 Diseases and conditions of public health interest that are reportable.

(a) Cases and carriers affected with any of the following diseases and conditions of public health interest, and persons who at the time of their death were apparently so affected, shall be reported to the Department as specified in this article:

Alpha-gal syndrome, laboratory-confirmed (reporting requirement applicable to laboratories only)

Carbapenem-resistant organisms, laboratory-confirmed (reporting requirement applicable to laboratories only)

[*Enterobacteriaceae*, carbapenem-resistant (CRE), laboratory-confirmed (reporting requirement applicable to laboratories only)]

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**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Communicable Disease Reporting Requirements

REFERENCE NUMBER: DOHMH-131

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

June 8, 2023
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
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212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Communicable Disease Reporting Requirements

REFERENCE NUMBER: 2023 RG 032

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: June 8, 2023