

Mandatory Reporting Requirements, Law Enforcement, and Patient Confidentiality in Arizona

Note: This resource is up to date as of November 2024.

Why use this fact sheet?

Confidentiality is central to the provider-patient relationship and a core part of medical ethics. In addition, violating patient confidentiality unnecessarily may carry professional or legal penalties. This fact sheet provides an overview of some of the major mandatory reporting requirements and where they intersect with patient privacy – with a specific focus on self-managed abortion. This fact sheet does not contain legal advice, and we recommend that providers who have further questions about their reporting requirements consult an in-state attorney for more information.

Who wrote this guide and why?

If/When/How: Lawyering for Reproductive Justice is a legal advocacy organization. We created this fact sheet in part because the most common cause of the criminalization of people who self-manage their own abortion care is unnecessary reports to law enforcement by medical providers. We also frequently field questions from providers who are concerned about what they may need to report. We know providers share our concern that risk to patients may be high when a report to law enforcement is triggered. In the case of reporting self-managed abortion, the consequences to patients might include jail time, losing custody of their children, a criminal record, or fines – all of which are unjust responses by an overzealous, racially biased system and frequently violate people's rights. Failure to report when it is necessary also carries risk of liability, so we want providers to feel confident in their ability to discern when reporting is legally required, and what must be included.

Providers can also help protect their patients from unjust criminalization.

Know your mandatory reporting obligations, and where they intersect with patient privacy.

This fact sheet covers most mandatory reporting requirements in Arizona law. Your hospital, clinic, or practice may have additional reporting requirements that you should be familiar with. Providers can help patients maintain their agency and confidentiality while fulfilling their mandatory reporting obligations by:

- Not reporting patients if not legally required.
- Informing patients of what the provider may have to report prior to treating the patient.
- Carefully considering what information is necessary to document in a medical chart.

Providers can also help protect their patients from unjust criminalization by ensuring that their hospital or clinic reporting policies do not conflict with state laws on medical privacy.

Major Mandatory Reporting Requirements in Arizona¹

Crime: Self-managed abortion is not a crime for abortion seekers in Arizona.²

Arizona health care providers are not required to report crimes other than (1) child abuse or neglect (including physical injury to a young person by anyone), (2) vulnerable adult abuse or neglect, and (3) certain results of crimes (such as injuries as described elsewhere in this fact sheet).

Child³ and vulnerable adult⁴ abuse: A young person or vulnerable adult self-managing an abortion is not ordinarily reportable as abuse.

Legal requirements for child and vulnerable adult abuse reporting are fraught with bias, in particular toward low-income families and families of color. However, all health care providers in Arizona who diagnose, examine, treat, or provide counseling are mandatory reporters for suspected child abuse and neglect.⁵ Health care providers are also mandatory reporters for suspected vulnerable adult abuse or neglect.⁶ Because suspicion naturally stems from our biases, health care providers should thoroughly examine any potential bias at play when deciding whether or not a report is required under the law. Arizona law also requires providers to report to state law enforcement if anyone (not just a parent or person responsible for the young person) causes physical injury⁷ to a young person.⁸ Note that under Arizona law, sexual abuse of a young person under 18 must be reported as child abuse only if committed by or allowed to be committed by the someone who has “care, custody and control”⁹ of the young person.

Have more questions? Reach out to request technical assistance.

Health care providers should inform adolescent patients about what constitutes reportable child abuse prior to talking to them about care when possible. Even if a provider decides to make an abuse report, the fact that a young person or vulnerable adult self-managed their own abortion would not ordinarily need to be included in a report.

Statutory rape: If a provider does need to report a statutory rape¹⁰, the fact that the patient attempted to end the pregnancy is not relevant to the investigation.

Arizona requires all health care providers to report suspected child abuse, which includes when a person with care, custody, and control of a young person commits sexual offenses against them. Health care providers are not required to report sexual activity of a young person unless it involves a person with care, custody and control of them. Health care providers should inform adolescent patients about what constitutes reportable sexual conduct prior to talking to them about care where possible.

Certain traumas and injuries: Self-managed abortion is not a reportable injury.

Health care providers in Arizona must notify the police when they treat gunshot wounds, knife wounds, or physical injuries that may have resulted from illegal activity.¹¹ However, allowing law enforcement into a patient's room is often a patient privacy violation, and any patient consent to police presence while suffering from a gunshot wound is likely not true informed consent.¹² If a reportable injury or condition is somehow connected to self-managed abortion, the health care provider does not need to report the intent behind the injury. Though most people self-manage with medication, sometimes people without access to medication or other safe abortion care may utilize more physical methods, such as asking someone to punch them in the stomach in order to induce a miscarriage. Depending on the severity of the injury, Arizona law may require a provider to report that injury (assault via punching). However, it is a violation of patient confidentiality to divulge the reason behind the injury – that is, the attempt to induce abortion. Since domestic violence¹³ and sexual assault¹⁴ are illegal in Arizona, providers would be required to report to police, if any patient has a physical injury that may have resulted from either. Note that generally, self-managed abortion is not illegal FOR ABORTION SEEKERS in Arizona, so a self-managed abortion on its own would not trigger a report unless it is connected to other illegal activities mentioned above, like a knife wound or assault. Health care providers should inform patients about what constitutes reportable injuries prior to talking to them about care where possible.

Overdoses and drug use during pregnancy: There are limited circumstances requiring a report following substance use during pregnancy.¹⁵

Health care providers are asked to report opioid overdoses¹⁶ to the Department of Health Services in Arizona, but failure to report does not carry legal penalties.¹⁷ State law also requires a provider to make a child abuse/neglect report¹⁸ when a provider believes that an infant may be affected¹⁹ by alcohol or drug²⁰ exposure that is not the result of medical treatment,²¹ after the provider has made an assessment of the infant or the infant has a positive toxicology test.²²

Self-harm: Arizona does not require health care providers to report threats of self-harm.

Under Arizona law, there is a duty to warn a third party when a patient makes a specific threat against a specific victim(s).²³ The duty to warn may be discharged by doing “all of the following,”²⁴ (1) warn the intended victim, (2) notify the police where the patient or the victim lives, (3) initiate hospitalization of the patient “if appropriate”, (4) take any other reasonable precautions that the situation requires.²⁵ Revealing an intention to self-manage an abortion is not a threat of violent behavior or serious harm, and in this context, a fetus is not a “third party” or separate person under Arizona law. If a patient indicates they may engage in an unsafe method of self-managed abortion, there are clinical interventions²⁶ that support patient safety without a report.

Abortion:²⁷ It is never necessary to report a patient’s intention to self-manage an abortion.

Under Arizona law, a physician who performs an abortion must report non-identifying information about each abortion to the Department of Health.²⁸ The intent to self-manage – or the event of self-managing – is not information a physician is required to provide under state law. Providers in Arizona are also required to make a report to the Department of Health Services if they provide treatment to a patient because they experienced a complication resulting from an abortion.²⁹ It is possible that complications from self-managed abortion are reportable under this requirement since the definition of abortion refers to any means³⁰ used to end a pregnancy, however, the inclusion in the reporting form of a “facility where the abortion was performed” suggests that the legislature only intends to capture facility-based abortions here.

Fetal death: Under the current definition of “fetal death,” providers do not have to report abortions.³¹

Providers³² must report fetal deaths that 1) occur at or after 20 weeks gestational age or 2) if the gestational age is unknown, where the fetus weighs 350 grams or more. These reports must be filed with the registrar within 7 days of the fetal death.³³ Under the current definition of fetal death, providers are not required to report, as fetal death, any induced termination of pregnancy, including self-managed abortion, except “when the induction was performed for the sole purpose of removing an already-dead fetus.”³⁴ The county medical examiner must investigate the cause of any reported fetal death.³⁵ The person reporting a fetal death is required to provide all information related to the fetal death to the police,³⁶ however, the new HIPAA rule explained below may limit the information providers are allowed to share with police.

In 2024, the federal government released an update to HIPAA. The new HIPAA rule clarifies that health care providers are barred from giving information about a patient's lawfully provided reproductive health care to police, coroners medical examiners, health oversight authorities, and judicial or administrative authorities unless the request for information is accompanied by a proper written attestation. The attestation must say that the person or entity seeking the information will not use it to open a criminal or civil investigation into any person, or to try to identify any person for merely seeking, providing, obtaining, or facilitating reproductive health care.³⁷ Self-managed abortion is not unlawful for abortion seekers in Arizona, and so health care providers and systems cannot disclose information about self-managed abortion a pregnant person did themselves. Additionally, if abortion care – self-managed or otherwise – was provided by someone else, a provider is allowed to assume the care was provided lawfully unless 1) the patient tells them otherwise or 2) the attestation provides evidence of unlawfully provided care.³⁸ Providers must comply with this rule beginning December 23, 2024. Though Texas challenged this rule in September of 2024, providers should follow current guidance unless the outcome of the case impacts enforcement.³⁹

Citations

1. This fact sheet focuses on mandatory reporting requirements that involve law enforcement or an analogous health authority. It does not include mandatory reporting requirements concerning communicable diseases, childhood blood lead levels, etc. The fact sheet intends to cover reporting requirements for physicians, nurses, physician assistants, midwives, social workers, mental health professionals, and emergency medical technicians. If you know of a mandatory reporting requirement for these professionals in Arizona involving or potentially involving law enforcement that is not covered on this sheet, please contact info@ifwhenhow.org.

2. A.R.S. § 36-2322 criminalizes the provision of abortions that are not permitted under Arizona abortion law. This would apply to abortions after viability that do not fall into a medical exception.

3. Someone under 18 years old, see A.R.S. § 13-3623(F)(2).

4. Vulnerable adult is defined as “an individual who is eighteen years of age or older and who is unable to protect himself from abuse, neglect or exploitation by others because of a mental or physical impairment.” A.R.S. § 13-3623(F)(6).

5. A.R.S. § 13-3620.

6. A.R.S. § 46-454.

7. “Physical injury means the impairment of physical condition and includes any skin bruising, pressure sores, bleeding, failure to thrive, malnutrition, dehydration, burns, fracture of any bone, subdural hematoma, soft tissue swelling, injury to any internal organ or any physical condition that imperils health or welfare.” A.R.S. § 13-3623(F)(4).

8. A.R.S. § 13-3620(A).

9. A.R.S. § 8-201(2).

10. While statutory rape is a crime in Arizona, providers are not required to report it unless it involves a parent or someone who has care, custody, and control of the young person. In Arizona, generally, a person who is 14 or younger cannot consent to sex with someone of any age. However, if a young person who is between 15-18 years old engages in consensual sexual activity with either 1) someone who is 18 or younger or 2) someone still attending high school and less than 2 years older than the young person, this would not be considered a crime under state law. Similarly, consensual sex between young people from 14-17 years of age is not a crime. See A.R.S. § 13-1405, § 13-1407(E), and § 13-3620(B)(1).

11. A.R.S. § 13-3806.

12. Working Group on Policing and Patient Rights, Police in the Emergency Department: A Medical Provider Toolkit for Protecting Patient Privacy (2021), <https://www.law.georgetown.edu/health-justice-alliance/wp-content/uploads/sites/16/2021/05/Police-in-the-ED-Medical-Provider-Toolkit.pdf> (last visited June 27, 2024).

13. A.R.S. § 13-3601.

14. A.R.S. § 13-1406.

Citations

15. Read more in If/When/How's Resource on prenatal and infant drug testing: [Prenatal Drug Exposure: CAPTA Reporting Requirements for Medical Professionals](#) (Feb. 2024).

16. A.A.C. § R9-4-602.

17. See Arizona Department of Health Opioid Reporting FAQ, "Not reporting would result in less data for local public health and healthcare professionals to effectively respond to the current opioid overdose epidemic in Arizona."

<https://www.azdhs.gov/documents/prevention/womens-childrens-health/injury-prevention/opioid-prevention/faq/opioid-reporting-faq.pdf>.

18. A.R.S. § 13-3620(E).

19. "Affected by" is not further defined in the statute for purposes of reporting, so providers do have discretion as to what it means in the medical context.

20. A report is NOT required for prescription cannabis used as directed. See *Ridgell v. Ariz. Dep't of Child Safety*, finding parent's use of medical marijuana as directed by a provider was not neglect and was equivalent to the use of any other medication used under the direction of a provider.

21. A report is NOT required for prescribed opioid use disorder treatment such as methadone or buprenorphine. Abortion pills are not controlled substances in Arizona. Therefore, medical providers are not required to report the use of abortion pills that the provider did not prescribe, and doing so may harm the patient.

22. A.R.S. § 13-3620(E).

23. A.R.S. § 36-517.02(A)(1).

24. Unfortunately, Arizona law is somewhat vague as to when more than one of these steps are necessary to satisfy the duty to warn. The use of "all of the following" may indicate that any number of these steps may be necessary to discharge the duty to warn depending on the circumstances.

25. *Id.* at (B).

26. Such clinical interventions could include informing the client about clinics where they can receive abortion care, or encouraging the client to call the [Repro Legal Helpline](#) if they are considering self-managing an abortion.

27. Arizona defines abortion as "the use of any means to terminate the clinically diagnosable pregnancy of a woman with knowledge that the termination by those means will cause, with reasonable likelihood, the death of the unborn child. Abortion does not include birth control devices, oral contraceptives used to inhibit or prevent ovulation, conception or the implantation of a fertilized ovum in the uterus or the use of any means to save the life or preserve the health of the unborn child, to preserve the life or health of the child after a live birth, to terminate an ectopic pregnancy or to remove a dead fetus." A.R.S. § 36-2151(1).

Citations

28. See A.R.S. § 36-2161 for the full list of required information for an abortion report.
29. A.R.S. § 36-2162.
30. A.R.S. § 36-2151(1).
31. Arizona defines fetal death as a death that occurs before the fetus is completely outside the body of the birthing person as shown by a lack of breathing, lack of a heartbeat, or lack of other voluntary muscle movement. A.R.S. § 36-301(14).
32. Providers include midwives and midwives have a separate reporting form for births that also includes fetal demise. A.R.S. § 36-329.
33. *Id.*
34. See Arizona Department of Public Health's Report, Fetal, Perinatal and Maternal Deaths (2005), explaining that induced termination of pregnancy will be removed from the fetal death definition to avoid double counts with fetal death reporting and abortion reporting.
<https://pub.azdhs.gov/health-stats/report/ahs/ahs2005/pdf/text1c.pdf>, page 2.
35. A.A.C. § R9-19-306 (A).
36. A.R.S. § 11-593 (A).
37. American Medical Association, HIPAA Privacy Rule to Support Reproductive Health Care Privacy AMA Drafted Summary of Regulatory Changes in Final Rule (April 26, 2024), <https://www.ama-assn.org/system/files/summary-regulatory-changes-final-rule-reproductive-health-information.pdf> (last visited June 27, 2024).
38. Dep't of Health & Human Servs., HIPAA Privacy Rule Final Rule to Support Reproductive Health Care Privacy: Fact Sheet (April 22, 2024), <https://www.hhs.gov/hipaa/for-professionals/special-topics/reproductive-health/final-rule-fact-sheet/index.html> (last visited July 10, 2024).
39. Texas v. U.S. Dept. of Health & Human Servs., et al, Case. No. 5:24-cv-00204-H (N.D. Tex. Sept. 4, 2024).