

Oklahoma provides compassionate release to eligible incarcerated individuals with serious medical conditions through **Medical Parole**¹ and to individuals age 60 and older through **Parole Based on Advanced Age**.²

MEDICAL PAROLE

I. ELIGIBILITY

Medical Condition – To be eligible for Medical Parole, an incarcerated individual must:

- Be dying or near death, defined as having a medical condition and estimated life expectancy of six months or less;³
- Be “medically frail,” defined as having a medical condition that prevents the performance of two or more activities of daily living without assistance,⁴ including eating, toileting, grooming, dressing, bathing, and transferring from one physical position to another.⁵
- Have a medical condition that has rendered the person no longer an “unreasonable threat” to public safety;⁶ or
- Be “medically vulnerable,” defined as having one or more medical conditions that make the individual more likely to contract an illness or disease while incarcerated that could lead to death or cause the person to become medically frail. Note that this criteria applies only during a catastrophic health emergency, as declared by the Governor.⁷

Potentially qualifying medical conditions include debilitating health conditions that occur as a result of dementia, Alzheimer’s disease, or similar degenerative brain disorders; human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS); cancer; cardiovascular disease; chronic lung disease or asthma; diabetes; hepatitis C; seizure disorders; the need for life-sustaining care such as feeding tubes or colostomy bags; disabling neurological disorders such as multiple sclerosis (MS) or amyotrophic lateral sclerosis (ALS); or any other condition related to a weakened immune system or condition that requires or is expected to require specialty care or recurrent hospitalizations.⁸

Exclusions – Incarcerated individuals who are serving life sentences without the possibility of parole are not eligible for Medical Parole.⁹

II. APPLICATION/REFERRAL

Medical Parole requests are documented on the Department of Corrections (Department) *Medical Services Medical Parole Evaluation* form.¹⁰ The Department does not provide any additional information on the application process.

III. DOCUMENTATION AND ASSESSMENT

Medical Documentation and Recommendation: Facility Medical Provider – The facility’s Medical Provider must document the incarcerated individual’s diagnosis, prognosis, functional ability, treatment regimen, continuity of care plan, and available resources (such as community and family support, a home offer, and financial resources such as Social Security and veterans’ disability or pension benefits).¹¹

Review and Recommendation: Chief Medical Officer – The Chief Medical Officer reviews the facility Medical Provider’s recommendation and documentation within three working days of receiving the information.¹²

- If the Chief Medical Officer **disagrees** with the recommendation for Medical Parole at this step, the denial must state the reason and be supported by documentation.¹³
- If the Chief Medical Officer **supports** the recommendation for Medical Parole, the partially complete *Medical Parole Evaluation* form is forwarded to the Manager of Sentence Administration.¹⁴

Review: Manager of Sentence Administration – The Manager of Sentence Administration (1) reviews the incarcerated individual’s records to ensure eligibility based on the person’s sentence; (2) obtains a current National Crime Information Center (NCIC) report; (3) reviews the Consolidated Record Card(s); and (4) completes the sections on the *Medical Parole Evaluation* form covering the individual’s criminal history, disciplinary information, risk assessment, case plan needs, parole hearing date, and any additional relevant information.¹⁵ This review is completed within five working days of receiving the *Medical Parole Evaluation* from the Chief Medical Officer.¹⁶

- If the Manager finds the individual eligible, the *Medical Parole Evaluation* is forwarded to the Facility Head/Warden, the Parole Process Unit, and the Chief Medical Officer.¹⁷
- If the individual is not eligible, the Manager returns the *Medical Parole Evaluation* to the Chief Medical Officer.¹⁸

Public Safety Determination: Facility Head/Warden – The Facility Head then determines whether the incarcerated individual presents an unreasonable threat to public safety if granted Medical Parole, generally within three days of receiving the *Medical Parole Evaluation* form from the Manager of Sentence Administration, and notes this on the form.¹⁹ The Facility Head then forwards the *Medical Parole Evaluation* to the appropriate Division Director of Institutions/Community Corrections and Contract Services.²⁰

Review: Division Director – The Division Director reviews the Facility Head’s recommendation within three days of receiving it and, if in agreement, indicates that on the *Medical Parole Evaluation*.²¹ If the Division Director does **not** agree with the recommendation, that is noted on the form along with the reasons for the disagreement.²²

Completion of Review Process: Chief of Operations and Chief of Staff – The Division Director submits the *Medical Parole Evaluation* to the Chief of Operations who, upon completing another review, forwards it to the Chief of Staff. Once those reviews are complete, the form is returned to the Chief Medical Officer.²³

Verification of Home Offer: Parole Process Unit – The Parole Process Unit forwards information regarding a proposed home offer for the individual to the appropriate probation and parole regional office for verification.²⁴

- If the home offer is denied, the Parole Process Unit contacts the Health Service Administrator who will work with the relevant facility staff to obtain a new home offer that is appropriate for the individual’s medical needs. That information is then provided to the Case Manager for submission to the Parole Process Unit and the appropriate probation and parole regional office.²⁵
- Once the home offer has been approved, the Parole Process Unit forwards that information to the Chief Medical Officer.²⁶

Review: Chief Medical Officer – The Chief Medical Officer reviews all of the documentation and, within three working days, forwards approved requests to the Department of Corrections Director.²⁷

Decision to Refer: Department of Corrections Director – The Director considers all of the recommendations and documentation and approves or denies the request for Medical Parole.²⁸ The Director’s office returns all denied requests to the Chief Medical Officer²⁹ and submits approved requests to the Oklahoma Pardon and Parole Board (Board).³⁰ Medical Services is responsible for notifying the individual and any designated staff regarding whether the Medical Parole request has been forwarded to the Board.³¹

IV. DECISION-MAKING PROCESS

Decision-Maker – The Oklahoma Pardon and Parole Board has the authority to grant Medical Parole.³²

- Note, however, that the Board’s statutory authority is limited to granting paroles (including Medical Parole) for individuals who committed nonviolent offenses. For those serving sentences for certain violent offenses, only the Governor can grant parole – including Medical Parole – after a favorable recommendation by the Board.³³ In those cases, the Governor also has discretion to include additional conditions to any parole approval.³⁴
- The Board has the authority to hear the cases of individuals whom the Director has recommended for Medical Parole at any time³⁵ and the Executive Director must put those cases on the first available parole review docket.³⁶

Decision Process

- **Decision** – The Board is a five-member, part-time board. At least three members of the Board must agree to consider an individual for Medical Parole.³⁷
- **Hearing** – Individuals the Board considers for Medical Parole are not subject to the usual two-stage parole hearing process.³⁸ As of October 1, 2021, there are no additional published rules regarding Medical Parole hearings.
- **Cases Subject to Governor’s Review** – For those Medical Parole requests that must go to the Governor for a final decision, the Board forwards all relevant documentation within four business days of its review. Upon receipt of the Board’s recommendation and all relevant documentation, the Governor must grant or deny the request within four business days.³⁹

Notification – Victims must be notified of the individual’s release on Medical Parole, pursuant to the general parole victim notification requirements.⁴⁰

V. POST-DECISION

Revocation/Termination – If it is determined that continuation of Medical Parole presents an increased risk to the public, parole may be revoked and the Department will follow its usual revocation procedures for parole violators.⁴¹

VI. REPORTING/STATISTICS

The Board has not published any official statistics on how many Medical Parole

requests it granted under the pre-2021 Medical Parole rules and did not respond to FAMM’s request for information on the numbers of individuals granted Medical Parole in 2019 and 2020.

- A May 2020 press report stated that the Board had considered 14 incarcerated individuals for Medical Parole that month and granted release to 12 who were considered at elevated risk from COVID-19.⁴²

PAROLE BASED ON ADVANCED AGE

I. ELIGIBILITY

Age and Time Served – An incarcerated individual who is age 60 or older and has served either 10 years of the sentence or one-third of the total term of imprisonment – whichever is shorter – may be eligible for Parole Based on Advanced Age.⁴³

Other Eligibility Criteria – To be eligible, an individual must also pose a minimal public safety risk.⁴⁴

Exclusions – Incarcerated individuals serving sentences for specific crimes of violence and sex offenses are not eligible for Parole Based on Advanced Age.⁴⁵

II. APPLICATION/REFERRAL

To apply, an individual must complete and submit an application to the Oklahoma Pardon and Parole Board (Board). The Board website has links to the *Aging Prisoners Application* form and instructions for completing it.⁴⁶

- Note that the Board will not provide applications directly to incarcerated individuals. Each facility’s law library has applications available, and the individual’s attorney or family member may print a copy of the application from the Board website and mail it to the person.⁴⁷

III. DOCUMENTATION AND ASSESSMENT

Initial Eligibility Determination: Manager of Sentence Administration – The facility’s Records Officer first sends an *Aging Prisoners Application* to the Manager of Sentence Administration/Offender Records and Registries to complete the section of entitled “DOC Determination of Eligibility.”⁴⁸ The Manager then returns the application to the Records Officer who returns it to the incarcerated individual or the individual’s attorney.⁴⁹

Completion of Form: Incarcerated Individual – The individual completes the application, filling in information about (1) the offense and victims; (2) “support benefits,” such as Medicare, Social Security, and other potential financial supports; (3) medical issues; (4) detainers; and (5) family support for housing needs.⁵⁰ The individual must sign the application and accompanying *Release of Information* form and get both notarized before submitting them to the Board for consideration.⁵¹

- The Board’s Frequently Asked Questions About Aging Prisoners Parole document states that once an application is complete, the individual may need a risk assessment by a Parole Investigator. The application can then move forward to the Board.⁵²

IV. DECISION-MAKING PROCESS

Decision-Maker – The Oklahoma Pardon and Parole Board has the authority to make decisions whether or not to grant eligible individuals Parole Based on Age.⁵³

Time Frame – After submission, an *Aging Prisoners Application* is placed on the Board’s next available docket. Case Managers are responsible for notifying an individual when that happens.⁵⁴

Hearings – According to information on the Board’s website, it holds hearings for all incarcerated individuals seeking release on the basis of advanced age,⁵⁵ stating that a hearing gives the Board the opportunity to (1) review all relevant information; (2) receive additional input (from victims, district attorneys, family members, and friends); and (3) question the individuals directly so as to assess their readiness for parole and risk to the public.⁵⁶

- All Board hearings are open to the public.⁵⁷
- The Board may provide individuals with the opportunity to speak at parole hearings. Individuals will also have the option of having counsel present at the hearings.⁵⁸
- Family members and/or friends (referred to on the Board’s website as the individual’s “delegates”) may write letters of support to be considered by the Board,⁵⁹ and one “delegate” may attend the Board hearing on the individual’s behalf.⁶⁰

Decisions – The Board may grant Parole Based on Advanced Age if it finds by a “preponderance of the evidence” that the incarcerated person, if released, “can live and remain at liberty without posing a substantial risk to public safety.”⁶¹

V. POST-DECISION

- **Appeals** – If the Board denies an application, the individual may submit a new application at any time.⁶² Note that the Board will not provide a reason for the denial.⁶³
- **Effect on Other Parole Eligibility** – If the Board denies an application for Parole Based on Advanced Age, it will consider the person at the individual's next regular parole opportunity.⁶⁴
- **Release Process** – When the Board grants Parole Based on Advanced Age, it sends the parole certificate to the individual for a signature.⁶⁵ Note that the parole is considered to be “pending” until the individual signs the certificate and the appropriate agencies obtain a valid home offer, complete any stipulations, and clear any detainers and warrants. The Board notes that multiple agencies are responsible for completing those tasks, and the process can take two to four weeks.⁶⁶ After completion, the individual is placed on a list for “probable release” the following week.⁶⁷

VI. REPORTING/STATISTICS

The Board has not provided any public information on how many individuals it has released under the Parole Based on Age provisions since the law went into effect in 2018. The Board did not respond to FAMM's request for that information.

OKLAHOMA COMPASSIONATE RELEASE **PRIMARY LEGAL SOURCES**

MEDICAL PAROLE

Statute

Oklahoma Statutes, § 57-332.18 (2020), available through the Oklahoma Legislature, <http://www.oklegislature.gov/osStatuesTitle.aspx> (click on Title 57 and scroll to the appropriate section), as amended by Senate Bill 320, effective Nov. 1, 2021, <https://legiscan.com/OK/text/SB320/id/2380140/Oklahoma-2021-SB320-Enrolled.pdf>.

Agency Policy

Oklahoma Department of Corrections, Policies and Procedures, Section 06: Classification and Case Management, Parole Process Procedures, OP-60205, § I (C), (Oct. 15, 2021), <https://oklahoma.gov/content/dam/ok/en/doc/documents/policy/section-06/op060205.pdf>.

- OP-60205, Attachment A: Medical Parole/Algorithm, <https://oklahoma.gov/content/dam/ok/en/doc/documents/policy/section-06/060205ab.pdf>.
- OP-60205, Attachment E: *Medical Services Medical Parole Evaluation*, <https://oklahoma.gov/content/dam/ok/en/doc/documents/policy/section-06/060205ae.pdf>.

PAROLE BASED ON ADVANCED AGE

Statute

Oklahoma Statutes, § 57-332.21, available through the Oklahoma State Legislature, <http://www.oklegislature.gov/osStatuesTitle.aspx> (click on Title 57 and scroll to the relevant section).

Agency Policy/Publications

Oklahoma Department of Corrections, Section 06: Classification and Case Management, Parole Process Procedures, OP-60205, (Oct. 15, 2021), <https://oklahoma.gov/content/dam/ok/en/doc/documents/policy/section-06/op060205.pdf>.

Oklahoma Pardon and Parole Board, *Aging Prisoners Application and Instructions* (April 2019), <https://www.ok.gov/ppb/documents/Aging%20Prisoners%20Application%202018.pdf>.

Oklahoma Pardon and Parole Board, *Frequently Asked Questions About Aging Prisoners Parole* (Nov. 2, 2018), <https://www.ok.gov/ppb/documents/FAQs%20Aging%20Prisoners%20Parole.pdf>.

NOTES

* *Id.* means see prior note.

¹ Okla. Stat. § 57-332.18; Oklahoma Department of Corrections, Policies and Procedures, Section 06: Classification and Case Management, Parole Process Procedure OP-060205, § I (C) (DOC OP-060205).

² Okla. Stat. § 57-332.21; Oklahoma Department of Corrections, Policies and Procedures, Section 06: Classification and Case Management, Parole Process Procedure OP-060205 (DOC OP-060205); Oklahoma Pardon and Parole Board, *Aging Prisoners Application and Instructions*; Oklahoma Pardon and Parole Board, *Frequently Asked Questions About Aging Prisoners Parole* (Board FAQ).

³ Okla. Stat. §§ 57-332.18 (B) and (F) (5); DOC OP-060205, § I (C) (1) (e).

⁴ Okla. Stat. §§ 57-332.18 (B) and (F) (1); DOC OP-060205, § I (C) (1) (a).

⁵ Okla. Stat. § 57-332.18 (F) (4); DOC OP-060205, § I (C) (1) (d).

⁶ Okla. Stat. § 57-332.18 (B); DOC OP-060205, § I (C).

⁷ Okla. Stat. §§ 57-332.18 (B) and (F) (2); DOC OP-060205, § I (C) (1) (b).

⁸ Okla. Stat. § 57-332.18 (F) (3); DOC-OP 060205, § I (C) (1) (c).

⁹ Okla. Stat. § 57-332.18 (E); DOC-OP 060205, § I (C).

¹⁰ DOC-OP 060205, Attachment E.

¹¹ *Id.* at § I (C) (2) (a). The medical unit is supposed to document this information in the individual's electronic health record under "Medical Parole Clinical Recommendation" and the "Medical Parole/Discharge Residence and Medical Resources" sections. *Id.*

¹² *Id.* at § I (C) (2) (c).

¹³ *Id.*

¹⁴ *Id.*, referencing Attachment E.

¹⁵ *Id.* at § I (C) (2) (d).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* at § I (C) (2) (e).

²⁰ *Id.*

²¹ *Id.* at § I (C) (2) (f).

²² *Id.*

²³ Id.

²⁴ Id. at § I (C) (2) (g). Note that the Department procedures do not indicate whether this verification happens after or simultaneously with the other review steps.

²⁵ Id. at § I (C) (2) (g) (1).

²⁶ Id. at § I (C) (2) (g).

²⁷ Id. at § I (C) (2) (h).

²⁸ Id. at § I (C) (2) (i).

²⁹ Id.

³⁰ Id. at § I (C) (2) (j). See also Okla. Stat. § 57-332.18 (A).

³¹ DOC-OP 060205, § I (C) (2) (k).

³² Okla. Stat. § 57-332.18 (A).

³³ Okla. Stat. § 57-332.16 (B). See also Board FAQ, Question 2.

³⁴ Board FAQ at Question 2.

³⁵ Okla. Stat. § 57-332.18 (A).

³⁶ Id. at (B).

³⁷ Id. at (C). The Board must provide the vote on whether to consider the individual and the names of the concurring Board members in its written minutes. Id.

³⁸ Id. at (B).

³⁹ Okla. Stat. § 57-332.16 (C). Note that this statute refers to Medical Parole as “Compassionate Parole.”

⁴⁰ Okla. Stat. § 57-332.18 (G), referencing § 57-332.2.

⁴¹ Id. at (D), referencing Okla. Stat. § 57-516.

⁴² Chris Polansky, “Board Recommends Special Medical Parole for 12 State Inmates,” *Public Radio Tulsa* (May 13, 2020), <https://www.publicradiotulsa.org/post/board-recommends-special-medical-parole-12-state-inmates#stream/0>; Keaton Ross, “New Law Makes Changes to Medical Parole Process,” *Enid News & Eagle* (June 7, 2021), https://www.enidnews.com/news/state/new-law-makes-changes-to-medical-parole-process/article_0a845e72-c7cd-11eb-bdda-838907b393ea.html.

⁴³ Okla. Stat. §§ 57-332.21 (A) (1) and (A) (2); DOC OP-060205, § I (E). Note that in the Department of Corrections policies, Parole Based on Advanced Age is referred to as “Aging Prisoner Parole.”

⁴⁴ Okla. Stat. § 57-332.21 (A) (3).

⁴⁵ Id. at (A) (4) and (A) (5), referencing Okla. Stat. §§ 21-13.1 and 57-571; DOC OP-060205, §§ I (E) (1) (b) and (1) (c).

⁴⁶ Oklahoma Pardon and Parole Board, *Aging Prisoners Application and Instructions*. There are no regulations or agency policies for Parole Based on Advanced Age; the application and the Board FAQ are the only guidance.

⁴⁷ Board FAQ, Question 5; DOC OP-060205, § I (E) (2) (a).

⁴⁸ Board FAQ, Question 5; DOC OP-060205, § I (E) (2) (b).

⁴⁹ Board FAQ, Question 5; DOC OP-060205, § I (E) (2) (c).

⁵⁰ *Application*, 6 through 8. Note that the incarcerated individual may have an attorney or family member's assistance completing the form. *Id.* at 5. The Board FAQ page says that parole investigators and case managers may **not** advise individuals regarding applications. Board FAQ, Question 7. See also DOC OP-060205, § I (E) (2) (d).

⁵¹ *Application* at 9.

⁵² Board FAQ, Question 11.

⁵³ Okla. Stat. § 57-332.21 (B).

⁵⁴ Board FAQ, Question 11. See also DOC OP-060205, § II for additional information on docketing.

⁵⁵ Board FAQ, Question 13. See also DOC OP-060205, §§ III and IV for additional information on the Board's hearing procedures.

⁵⁶ Board FAQ, Question 13.

⁵⁷ *Id.* at Question 16.

⁵⁸ Okla. Stat. § 57-332.21 (H).

⁵⁹ Board FAQ, Question 17.

⁶⁰ *Id.*

⁶¹ Okla. Stat. § 57-332.21 (F).

⁶² Board FAQ, Question 29.

⁶³ *Id.* at Question 32.

⁶⁴ *Id.* at Question 34.

⁶⁵ *Id.* at Question 27.

⁶⁶ *Id.*

⁶⁷ *Id.*