

Oklahoma

Analysis

People living with HIV (PLHIV) can face felony charges for failing to disclose their HIV status to their sexual partners.

It is punishable by up to five years in prison for a PLHIV to engage in conduct that is “reasonably likely to result in the transfer of the person’s own blood, bodily fluids containing visible blood, semen, or vaginal secretions into the bloodstream of another, or through the skin or membranes of another person” with the intent to infect that other individual.¹ It is a defense to prosecution if the other party had been informed of the defendant’s HIV status and consented to the conduct in question.² Transmission of HIV is not required for prosecution.

Although Oklahoma’s HIV exposure statute requires intent to transmit disease, prosecutions under this law have resulted in convictions even where there was no clear indication that the defendant acted with intent to transmit HIV, but rather only failed to inform a sexual partner of their HIV status:

- In August 2014, a 36-year-old PLHIV was charged with two counts of knowingly engaging in capable of transmitting HIV and two counts of using a computer to violate Oklahoma state statutes after he solicited sexual partners on without disclosing his HIV status to numerous respondents.³
- In January 2014, a 31-year-old PLHIV was arrested on suspicion of knowingly exposing another to HIV.⁴
- In March 2012, a 23-year-old PLHIV was charged with, among other things, assault and battery with a deadly weapon and knowingly exposing several sexual partners to HIV.⁵
- In 2009, a 40-year-old PLHIV was arrested for not disclosing his HIV status to a man with whom he’d had oral sex.⁶
- In December 2009, a 64-year-old PLHIV was arrested after a woman complained to police that he had not disclosed his HIV status prior to their engaging in a sexual relationship.⁷

¹ OKLA. STAT. tit. 21, § 1192.1(A) (2016).

² OKLA. STAT. tit. 21, § 1192.1(A)(1) (2016).

³ Dave Detling and Brian Shlonsky, *Oklahoma man arrested, accused of having sex without disclosing HIV status*, KOCO.COM, Aug. 01, 2014, available at <http://www.koco.com/news/oklahoma-man-arrested-accused-of-having-sex-without-disclosing-hiv-status/27257282>.

⁴ *HIV Suspect Arrested in Muskogee County*, SWTIMES, Jan. 17, 2014, available at <http://swtimes.com/news/hiv-suspect-arrested-muskogee-county>.

⁵ *Grady County Man Accused of Spreading HIV Held Without Bond*, NEWS9.COM, Mar. 20, 2012, available at <http://www.news9.com/story/17204303/grady-county-man-accused-of-spreading-hiv-held-without-bond?clienttype=printable>.

⁶ *Oklahoma City man arrested on suspicion of ‘transmitting AIDS’*, NEWSOK, Aug. 27, 2009, available at http://newsok.com/man-arrested-on-suspicion-of-transmitting-aids/article/3396100?custom_click=rss.

The common element in all of these cases was the defendant's alleged failure to disclose their HIV status to a sexual partner.

Non-disclosure of HIV status or a complainant's absence of consent to engage in the relevant activity is a required element for prosecution, but whether or not a defendant disclosed their HIV status is often difficult to demonstrate in court. In these matters, relying on party testimony has inherent limitations. For example, a man living with HIV was charged with knowingly exposing his girlfriend to HIV, who alleged that she did not know the man's status over the period of their relationship.⁸ It was not until six months after the initial charges were brought that detectives determined, due to the witness testimony, that the woman had in fact been aware of the man's HIV status before initiating their sexual relationship.⁹

The authors are not aware of any instances in which the use of a condom or a defendant's low viral load have been relied upon as a defense in any of Oklahoma's reported cases, though condoms as a barrier method are significant to whether "transfer" occurred, as required by the statute.

PLHIV have been prosecuted under Oklahoma's criminal HIV exposure law for spitting and biting.

PLHIV have been charged under Oklahoma's intent-to-transfer statute for conduct, such as biting and spitting, that poses a remote or no risk of HIV transmission and may not meet the criteria in the law itself.

- In June 2015 a 32-year-old PLHIV was charged with knowingly intending to transfer HIV and assault and battery after allegedly spitting on a woman during an argument.¹⁰
- In May 2010, a man claiming to have HIV was booked on four felony complaints of spreading an infectious disease and knowingly intending to transfer HIV after jerking his head to throw blood and saliva at emergency medical workers as he was being treated for injuries from a fire.¹¹
- In October 2008, a 50-year-old PLHIV was arrested and charged with attempting to infect a security guard with HIV by biting him.¹²

The CDC has concluded that there exists only a "negligible" possibility that HIV be transmitted through spitting or biting.¹³ Although the statute requires conduct reasonably likely to result in transfer of "blood,

⁷ *Oklahoma City man arrested on HIV complaint*, NEWSOK, Dec. 15, 2009, available at <http://newsok.com/oklahoma-city-man-arrested-on-hiv-complaint/article/3425108>.

⁸ *Authorities Drop Charges Against HIV-Positive Man*, TULSA WORLD, Oct. 1, 1992, at C12.

⁹ *Id.*

¹⁰ *Report: Man arrested for 'knowingly transferring HIV' after allegedly spitting on woman*, KFOR.COM, June 22, 2015, available at <http://kfor.com/2015/06/22/report-man-arrested-for-knowingly-transferring-hiv-after-allegedly-spitting-on-woman/>.

¹¹ Shannon Muchmore, *Man Who Says He Has HIV Allegedly Spits on Emergency Workers*, NEWSOK, May 23, 2010, available at <http://newsok.com/man-who-says-he-has-hiv-spits-on-emergency-workers/article/3463349>; *Man Arrested for Trying to Spread HIV*, Fox23, May 24, 2010, available at <http://www.fox23.com/news/news/breaking-news/man-arrested-for-trying-to-spread-hiv/ndmZ4/>.

¹² Jay Marks, *HIV-positive Woman Faces Felony for Bite*, NEWSOK, Oct. 8, 2008, available at <http://newsok.com/hiv-positive-woman-faces-felony-for-bite/article/3308838>.

¹³ CTR. FOR DISEASE CONTROL & PREVENTION, *HIV Transmission Risk, Estimated Per-Act Probability of Acquiring HIV from an Infected Source, by Exposure Act*, (Dec. 4, 2015) available at <http://www.cdc.gov/hiv/policies/law/risk.html> (last visited Dec. 13, 2016).

bodily fluids containing visible blood, semen, or vaginal secretions,”¹⁴ these examples suggest that PLHIV are being prosecuted regardless of whether the bodily fluids in question contain “visible blood.”

PLHIV engaging in sex work may face enhanced penalties of up to five years in jail.

Upon conviction for prostitution, PLHIV engaged in sex work face up to five years in prison if they know their HIV status.¹⁵ But for HIV status, a conviction for prostitution and related crimes is typically a misdemeanor, punishable by 30 days to one year in jail and up to \$2,500 in fines.¹⁶ The law specifically targets PLHIV engaged in sex work regardless of intent to transmit HIV, risk of HIV transmission, or actual transmission. The definition of prostitution under the statute contains various activities that do not pose a risk of transmission, such as “masturbation,”¹⁷ as well as the “making of any appointment or engagement” for anal or vaginal sex, oral sex, or masturbation.¹⁸ On the face of this statute, no actual sexual activity is required to face felony prosecution and factors such as the use of condoms or a defendant’s low viral load would not matter.

PLHIV have also been convicted under general criminal laws.

Oklahoma’s HIV exposure statute has been in place since 1997, but general criminal laws have been used to target PLHIV as well. In 2000, a 41-year-old PLHIV pled guilty to 56 counts of sexual abuse and one count of attempted murder after he engaged in sexual intercourse with two female minors.¹⁹ Each count represented a month that he engaged in sexual conduct with one or both of the minors.²⁰ The attempted murder charge arose from allegations that he knew his HIV status and repeatedly engaged in unprotected sex with one of the minors, who later became pregnant--both she and her baby had positive HIV test results.²¹ The defendant was sentenced to four consecutive life sentences and 53 concurrent life sentences.²²

PLHIV can be compelled to comply with Partner Counseling and Referral Services (PCRS).

Partner Counseling and Referral Services (PCRS) that persons diagnosed with HIV receive in Oklahoma include the recommendation that they disclose their HIV status “prior to engaging or contemplating the engagement of any sexual activity or other transmission activity.”²³ Refusal to

¹⁴ OKLA. STAT. tit. 21, § 1192.1(A) (2016)

¹⁵ OKLA. STAT. tit. 21, § 1031(B) (2016).

¹⁶ OKLA. STAT. tit. 21, § 1031(A) (2016).

¹⁷ OKLA. STAT. tit. 21, § 1030(1)(a) (2016).

¹⁸ OKLA. STAT. tit. 21, § 1030(1)(b) (2016).

¹⁹ Bill Braun, *Tulsa Man Imprisoned for Life on Sex Counts*, TULSA WORLD, May 24, 2000, available at http://www.tulsaworld.com/archives/tulsa-man-imprisoned-for-life-on-sex-counts/article_eb71377f-dfa5-5907-91c3-15568704f89e.html.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ OKLA. ADMIN. CODE § 310:521-5-3(c)(5) (2016).

voluntarily comply with PCRS, including “engage[ment] in sexual activity without observing PCRS recommendations,” will result in a compliance order being issued to a PLHIV.²⁴

Persons with an STI can be punished for exposing others or transmitting disease.

Oklahoma has two criminal statutes that penalize exposure or transmission of infectious disease.²⁵ It is a felony, punishable by two to five years’ imprisonment, for a person with syphilis or gonorrhea to intentionally or recklessly spread disease to others.²⁶ Conviction for this crime also bars an inmate from earning credit for good conduct and education activities that can be applied toward the reduction of a sentence.²⁷ Disclosure does not appear to be a defense on the face of the statute. Persons with “any contagious disease” who willfully expose themselves to others in “any public place or thoroughfare” may be charged with a misdemeanor²⁸ and be sentenced to one year in jail and a \$500 fine.²⁹ Critical terms such as “expose” are not defined and “any contagious disease” may include a number of conditions that are not casually transmitted. The authors are not aware of any case law that helps clarify the application of these laws.

Public health officials may order mandatory examination, treatment, or quarantine of a person with an STI and non-compliance may result in prosecution.

Public health officials may issue an order for the examination or treatment of any individual suspected or confirmed to have a communicable disease.³⁰ It is against the law for a person with an STI to refuse to submit to examination and treatment by a physician.³¹ Public health officials are also explicitly authorized to use quarantine for “protection of other persons from infection by a person infected with an STI.”³² This authority is in addition to the broader power of health officials to impose quarantine or isolation in response to “a communicable disease of public health concern”³³ which is not defined by statute. “Sexually transmitted infection” is defined and includes syphilis, gonorrhea, chlamydia, HIV, AIDS, and “any other disease which may be transmitted from any person to any other person through or by means of any form of sexual contact.”³⁴

The Administrative Code details the criteria that must be met to issue an order for isolation: 1) a person must be reasonably known or suspected to have a communicable disease constituting a biological public health threat; 2) isolation is the necessary means to control the spread of disease.³⁵ Biological

²⁴ OKLA. ADMIN. CODE § 310:521-5-3(e) (2016).

²⁵ OKLA. STAT. tit. 21, §§ 1192, 1199 (2016).

²⁶ OKLA. STAT. tit. 21, § 1192 (2016).

²⁷ OKLA. STAT. tit. 57, § 138(E)(60) (2016).

²⁸ OKLA. STAT. tit. 21, § 1199 (2016).

²⁹ OKLA. STAT. tit. 21, § 1219 (2016).

³⁰ OKLA. ADMIN. CODE § 310:521-7-1, 310:521-7-2 (2016).

³¹ OKLA. STAT. tit. 63, § 1-518 (2016).

³² OKLA. STAT. tit. 63, § 1-530(a) (2016).

³³ OKLA. STAT. tit. 63, § 1-504(B) (2016).

³⁴ OKLA. STAT. tit. 63, § 1-517(a) (2016).

³⁵ OKLA. ADMIN. CODE § 310:521-7-2(a) (2016).

public health threat means an “infectious, communicable disease, the agent of which may be readily transmitted from an infectious person to a susceptible person without their knowledge or consent, and the infectious nature of which is known to cause increasing incidence of infection and disease upon transmission such that there is a threat to the general public health.”³⁶

Persons subject to an order for isolation or quarantine are entitled to request a hearing in which the Department of Health must demonstrate by a preponderance of the evidence that they have, or are suspected of having, an infectious disease constituting a biologic public health threat, or that they have been exposed to such.³⁷ Persons may appeal the administrative decision resulting from the hearing pursuant to the district court of the county where they reside.³⁸

Should a person subject to an order of examination, treatment, isolation or quarantine fail to comply, public health official may request an emergency order from the district court to enforce the order.³⁹ If the court grants the order, the person is taken immediately into custody by law enforcement officials for the purpose of examination, treatment or detention until the Department of Health determines that there is “no longer pose a risk of transmission of the infectious agent constituting a biologic public health threat to other individuals.”⁴⁰ The criteria to be relied upon in this assessment are not enumerated and other than the hearing before the Department of Health and general provisions for challenging an agency’s administrative action, there are no procedural safeguards for a person subject to a restrictive order.

The penalty for willful violation of a lawful order issued by public health officials is a misdemeanor, punished by up to 30 days in jail and a \$100 fine.⁴¹ Violating any provision of the Public Health Code generally is also a misdemeanor, and punishable by 30 days in jail and a \$200 fine.⁴² In addition to these penalties, district courts are empowered to grant injunctive relief to prevent violation of, or compel compliance with, any provisions of the Public Health Code or orders issued pursuant to the Code.⁴³

Important note: *While we have made an effort to ensure that this information is current, the law is always changing and we cannot guarantee the accuracy of the information provided. This information may or may not be applicable to your specific situation and, as such, should not be used as a substitute for legal advice.*

³⁶ OKLA. ADMIN. CODE § 310:521-1-2 (2016).

³⁷ OKLA. ADMIN. CODE § 310:521-7-6(a) (2016).

³⁸ *Id.*, OKLA. STAT. tit. 75, § 318(B)(2) (2016).

³⁹ OKLA. ADMIN. CODE § 310:521-7-6(b) (2016).

⁴⁰ OKLA. ADMIN. CODE § 310:521-7-6(b), 310:521-7-9 (2016).

⁴¹ OKLA. STAT. tit. 63, § 1-1701(A)(1) (2016).

⁴² OKLA. STAT. tit. 63, § 1-1701(A)(2) (2016).

⁴³ OKLA. STAT. tit. 63, § 1-1701(B)(1) (2016).

Oklahoma Statutes

Note: Provisions imposing punitive restrictions or listing criminal sentences are denoted with ** and are generally listed first. Thereafter, provisions within a particular title are listed numerically.

TITLE 21, CRIMES AND PUNISHMENTS

OKLA. STAT. TIT. 21, § 1192.1 (2016) **

Penalty for Knowingly Intending to Transfer Human Immunodeficiency Virus

A. It shall be unlawful for any person knowing that he or she has Acquired Immune Deficiency Syndrome (AIDS) or is a carrier of the human immunodeficiency virus (HIV) and with intent to infect another, to engage in conduct reasonably likely to result in the transfer of the person's own blood, bodily fluids containing visible blood, semen, or vaginal secretions into the bloodstream of another, or through the skin or other membranes of another person, except during in utero transmission of blood or bodily fluids, and:

1. The other person did not consent to the transfer of blood, bodily fluids containing blood, semen, or vaginal secretions; or
2. The other person consented to the transfer but at the time of giving consent had not been informed by the person that the person transferring such blood or fluids had AIDS or was a carrier of HIV.

B. Any person convicted of violating the provisions of this section shall be guilty of a felony, punishable by imprisonment in the custody of the Department of Corrections for not more than five (5) years.

OKLA. STAT. TIT. 21, § 1030 (2016)

Definitions

As used in the Oklahoma Statutes, unless otherwise provided for by law:

1. "Prostitution" means:

- a. the giving or receiving of the body for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value, or
- b. the making of any appointment or engagement for sexual intercourse, fellatio, cunnilingus, masturbation, anal intercourse or lewdness with any person not his or her spouse, in exchange for money or any other thing of value;

OKLA. STAT. TIT. 21, § 1031 (2016) **

Conviction--Punishment--Superintendent of Health

Any person who engages in an act of prostitution with knowledge that they are infected with the human immunodeficiency virus shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for not more than five (5) years.

OKLA. STAT. TIT. 21, § 1192 (2016) **

Penalty for spreading infectious diseases

Any person who shall inoculate himself or any other person or shall suffer himself to be inoculated with smallpox, syphilis or gonorrhea and shall spread or cause to be spread to any other persons with intent to or recklessly be responsible for the spread of or prevalence of such infectious disease, shall be deemed a felon, and, upon conviction thereof, guilty of a felony and shall be punished by imprisonment in the State Penitentiary for not more than five (5) years nor less than two (2) years.

OKLA. STAT. TIT. 21, § 1199 (2016) **

Penalty for Exposing Oneself or Another With Contagious Disease in Public Place

Every person who willfully exposes himself or another person, being affected with any contagious disease in any public place or thoroughfare, except in his necessary removal in a manner not dangerous to the public health, is guilty of a misdemeanor.

OKLA. STAT. TIT. 21, § 1219 (2016) **

Penalties

Any person violating the provisions of this act shall be guilty of a misdemeanor and, upon conviction, shall be imprisoned in the county jail for not less than thirty (30) days nor more than (1) year or shall be fined an amount not to exceed Five Hundred Dollars (\$ 500.00) or by both such imprisonment and fine; provided if a person be convicted of such offense a second time, it shall be mandatory that his punishment be jail imprisonment for one (1) year.

TITLE 63, PUBLIC HEALTH AND SAFETY

OKLA. STAT. TIT. 63, § 1-504 (2016)

Quarantine

A. Whenever a local health officer determines or suspects that a person has been exposed to and may be incubating a communicable disease of public health concern, the local health officer may impose a quarantine upon such person and require such person to remain out of public contact and in the place or premises where such person usually stays. Notice thereof shall be given in accordance with the rules and regulations of the State Board of Health. It shall be unlawful for such person, or any other person, to violate the terms or conditions of the quarantine.

B. Whenever a local health officer determines or suspects that a person has a communicable disease of public health concern, the local health officer may impose isolation upon such person and require such person to remain out of public contact and in an adequate treatment facility or in the place or premises where such person usually stays. Notice thereof shall be given in accordance with the rules and regulations of the State Board of Health. It shall be unlawful for such person, or any other person, to violate the terms or conditions of the isolation.

C. District courts shall be authorized to grant injunctive relief, including temporary injunctions and temporary restraining orders, to compel compliance with a quarantine or isolation order issued by a local health officer pursuant to this section.

OKLA. STAT. TIT. 63, § 1-517 (2016)

Definitions

For the purposes of the following sections of this article:

(a) The term "sexually transmitted infection (STI)" means syphilis, gonorrhea, chlamydia, human immunodeficiency virus (HIV)/acquired immune deficiency syndrome (AIDS), and any other disease which may be transmitted from any person to any other person through or by means of any form of sexual contact.

*Not certain if the definition of serious transmissible disease is necessarily critical as it was found under 1-523: "Institutions--Treatment of infected inmates--Notice to persons in contact with infected inmates--Testing of inmates" but I thought I would include it for now anyways.

OKLA. STAT. TIT. 63, § 1-518 (2016)

Report and Treatment of Disease

It shall be unlawful for any person, being an infected person, to refuse, fail or neglect to report such fact to, and submit to examination and treatment by, a physician.

OKLA. STAT. TIT. 63, § 1-527 (2016)

Reports of Venereal Disease

Any physician who makes a diagnosis or treats a case of a sexually transmitted infection (STI), and every superintendent or manager of a hospital, dispensary or charitable or penal institution in which there is a case of an STI, shall report such case immediately, in writing, to the State Commissioner of Health, or the local health officer, in the same manner as other communicable diseases are reported, in forms to be prescribed and furnished by the Commissioner.

OKLA. STAT. TIT. 63, § 1-530 (2016)

Protection Against Spread of Disease

(a) Upon receipt of a report of a case of sexually transmitted infection (STI), the local health officer shall institute measures, which may include quarantine, for protection of other persons from infection by a person infected with an STI.

(b) The State Board of Health shall adopt rules and regulations for the quarantine of persons infected with a sexually transmitted infection (STI), to prevent the spread of sexually transmitted infection (STI).

(c) Boards of county commissioners and governing boards of all incorporated towns and cities may provide suitable places for the detention of persons who may be subject to quarantine and who should be segregated.

OKLA. STAT. TIT. 63, § 1-1701 (2016) **

Penalties

A. Unless otherwise provided in the Oklahoma Public Health Code:

1. Any person who willfully fails or refuses to comply with, or violates, a lawful order of the State Board of Health or the State Commissioner of Health, or his duly authorized representative, or

of a local health officer, or who violates the terms and conditions of a quarantine or embargo, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not to exceed One Hundred Dollars (\$ 100.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment; . . .

5. Any person who does any act that is made unlawful or a misdemeanor by the provisions of this Code, or who violates any of the other provisions of this Code, or any standard, rule or regulation authorized by this Code, shall, upon conviction, be guilty of a misdemeanor, and upon conviction thereof may be punished by a fine of not more than Two Hundred Dollars (\$ 200.00), or by imprisonment in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

B.

1. Notwithstanding the penalties provided for in this section, district courts may also grant injunctive relief to prevent a violation of, or to compel a compliance with, any of the provisions of this Code or any rule or order issued pursuant to this Code.

2. Any action for injunctive relief to redress or restrain a violation by any person of any provision of this Code, any rule or order issued pursuant to this Code, or recovery of any administrative or civil penalty assessed pursuant to Section 1-1701.1A of this title may be filed and prosecuted by:

- a. the district attorney in the appropriate district court of the State of Oklahoma, or
- b. the Department on behalf of the State of Oklahoma in the appropriate district court of the State of Oklahoma, or as otherwise authorized by law

Oklahoma Administrative Code

TITLE 310, OKLAHOMA STATE DEPARTMENT OF HEALTH

OKLA. ADMIN. CODE 310:521-1-2 (2016)

Definitions

The following words and terms, when used in the Chapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Biologic public health threat" means an infectious, communicable disease, the agent of which may be readily transmitted from an infectious person to a susceptible person without their knowledge or consent, and the infectious nature of which is known to cause increasing incidence of infection and disease upon transmission such that there is a threat to the general public health.

OKLA. ADMIN. CODE 310:521-5-3 (2016)

Standards of HIV Prevention and Treatment

(c) PCRS⁴⁴ shall, at a minimum, include assisting HIV positive persons with informing their partners about potential exposure to HIV, how the risk of exposure can be decreased or minimized, or if already infected, how transmission to others may be prevented or avoided, and to information that will aid the infected person and his partners to gain access to counseling, testing, medical treatment, prevention and other services. Additionally, PCRS shall include any information that is generally scientifically accepted regarding measures that can be adopted or implemented to prevent the transmission of HIV or AIDS, including:

(5) Disclosure, prior to engaging or contemplating the engagement of any sexual activity or other transmission activity, to all partners or participants, that the person is HIV-positive.

(e) If a person identified as HIV positive or diagnosed with AIDS refuses to voluntarily engage in PCRS is reported to have engaged in sexual activity without observing PCRS recommendations a compliance order will be issued to the person mandating compliance with PCRS recommendations.

OKLA. ADMIN. CODE 310:521-7-1(2016)

Examination

The Commissioner may issue an order for the examination of any individual upon the suspicion or confirmation that said individual has a communicable disease. Such examination may include a clinical examination, a specific diagnostic test or tests, or a specific laboratory test or tests. The purpose of such examination(s) and/or test(s) is to determine the presence of the suspected infectious organism or the presence of indicators of the suspected infectious organism, and to determine the contagious state of the individual to the extent possible.

OKLA. ADMIN. CODE 310:521-7-2 (2016)

Treatment

The Commissioner may issue an order for the treatment of any individual suspected or confirmed to have a communicable disease. The Commissioner may also order the treatment of any individual or individuals exposed to certain infectious agents. Such treatment plans will be according to procedures developed within the Department.

OKLA. ADMIN. CODE 310:521-7-3 (2016)

Isolation or quarantine

(a) Isolation. The Commissioner may issue an order for the isolation of any individual or group of individuals upon determination:

(1) That such individual or individuals who are reasonably known or suspected to have a communicable disease constituting a biologic public health threat and who remain within the transmission period for said disease; and

⁴⁴ PCRS is the abbreviation for Partner Counseling and Referral Services.

(2) That isolation is the necessary means to control the spread of the agent and the disease constituting a biologic public health threat.

(b) Quarantine. The Commissioner may issue an order for the quarantine of any individual or group of individuals upon determination:

(1) That such individual or individuals who are reasonably known or suspected to have been exposed to a communicable disease constituting a biologic public health threat and who remain within the incubation period for said disease; and

(2) That quarantine is the necessary means to contain the communicable disease constituting a biologic public health threat to which an individual or individuals have been or may have been exposed.

OKLA. ADMIN. CODE 310:521-7-6 (2016)

Administrative hearings and court enforcement

(a) Any person who is subject to an order of the Commissioner for isolation or quarantine and who contests such an order may request an individual proceeding or hearing. In order to uphold a quarantine order the Department must prove by a preponderance of the evidence that the Respondent was, or was suspected of having been, exposed to an infectious disease constituting a biologic public health threat. In order to uphold an isolation order the Department must prove by a preponderance of the evidence that the Respondent has, or is suspected of having, an infectious disease constituting a biologic public health threat. If requested, an individual proceeding pursuant to this subsection shall be convened as quickly as reasonably possible, which may be held telephonically or by other electronic means. A Respondent may request a hearing verbally or in writing. If the request for hearing is verbal, it shall be the duty of the hearing officer to take a statement for the record of the Respondent's reason for contesting the Commissioner's order. If the Commissioner's order is upheld at the conclusion of the hearing, the Respondent may appeal the administrative decision pursuant to Section 318 of Title 75 of the Oklahoma Statutes.

(b) Upon finding that there is probable cause to believe that any individual or individuals who are subject to an order of examination, treatment, isolation, or quarantine has failed to or refuse to comply with such order, the Commissioner may request an emergency order from the district court to enforce the Commissioner's order. If granted, the emergency order shall require the individual or individuals to be taken immediately into custody by law enforcement officials for the purpose of examination or treatment or to be detained for the duration of the order of isolation or quarantine or until the Commissioner determines that the risk of transmission of a biologic public health threat is no longer present.

(c) Subsections a or b of this section may be suspended in the event of a declaration of emergency by the Governor pursuant to Oklahoma law or upon written directive of the Commissioner of Health to employ a constitutionally-sufficient alternative process due to exigent circumstances during such emergency. Such suspension of subsections a and b shall only exist for the duration of the emergency.

OKLA. ADMIN. CODE 310:521-7-9 (2016)

Release from isolation or quarantine

The Commissioner will determine when an individual or individuals are determined to no longer be at risk of developing disease and becoming infectious or to no longer pose a risk of transmission of the infectious agent constituting a biologic public health threat to other individuals. The individuals under the order of quarantine or isolation shall be so notified by the Commissioner and shall be released from quarantine or isolation immediately upon notification.