

**ASCA Responses: Medical Release of Chronically Ill or
Disabled Offenders Survey
(November 2010)**

*Question #3. Please attach or include the link to the statute, regulation, policy,
etc. that allows such a release.*

Arkansas

A.C.A. § 12-29-404 (2010) 12-29-404. Incurable diseases. (a) When, in the independent opinions of a prison physician and a consultant physician from the community, an inmate has an incurable illness which, on the average, will result in death within twelve (12) months, or when an inmate is permanently physically or mentally incapacitated to the degree that the community criteria are met for placement in a nursing home, rehabilitation facility, or similar setting providing a level of care not available in the Department of Correction or the Department of Community Correction, the Director of the Department of Correction or the Director of the Department of Community Correction shall make these facts known to the Parole Board. (b) (1) The board shall assemble or request all such information as is germane to making a decision. (2) If the facts warrant, the board may make the inmate eligible for immediate transfer to parole supervision. HISTORY: Acts 1893, No. 76, § 35, p. 121; C. & M. Dig., § 9666; Pope's Dig., § 12706; A.S.A. 1947 § 46-152; Acts 1991, No. 771, § 1; 1995, No. 290, § 1.

Colorado

CRS 17-22.5-403.5. Special needs parole. (1) Notwithstanding any provision of law to the contrary, a special needs offender, as determined pursuant to rules adopted by the state board of parole, may be eligible for parole prior to the offender's parole eligibility date pursuant to this section if: (a) The state board of parole determines, based on the special needs offender's condition and a medical evaluation, that he or she does not constitute a threat to public safety and is not likely to commit an offense; and (b) The board prepares a special needs parole plan that ensures appropriate supervision and placement of the special needs offender. (2) This section shall apply to any inmate applying for parole on or after July 1, 2001, regardless of when the inmate was sentenced. The provisions of this section shall not affect the length of the parole period to which a special needs offender would otherwise be subject. (3) The department may recommend to the parole board that an offender be considered for parole prior to the offender's parole eligibility date as a special needs offender pursuant to the provisions of subsection (1) of this section. Prior to making any recommendation pursuant to this subsection (3), the department shall establish objective criteria on which to base a recommendation for parole prior to the offender's parole eligibility date pursuant to the provisions of this section. Source: L. 2000: Entire section added, p. 1495, § 2, effective July 1, 2001. L. 2003: IP(1) amended and (3) added, p. 1910, § 2, effective August 6.

Delaware

Delaware Code, Title 11 subsection 4217. Jurisdiction over sentence retained.

(a) In any case where the trial court has imposed an aggregate sentence of incarceration at Level V in excess of 1 year, the court shall retain jurisdiction to modify the sentence to reduce the level of custody or time to be served under the provisions of this section. (b) The court may modify the sentence solely on the basis of an application filed by the Department of Correction for good cause shown which certifies that the release of the defendant shall not constitute a substantial risk to the community or the defendant's ownself. (c) Good cause under this section shall include, but not be limited to, rehabilitation of the offender, serious medical illness or infirmity of the offender and prison overcrowding. (d)(1) Any application filed by the Department of Correction under this section shall be filed with the Board of Parole. The Board of Parole shall have the authority to promulgate reasonable regulations concerning the form and content of said applications. The Board of Parole may require the Department of Corrections to provide it with any information in the possession of the Department reasonably necessary for the Board to assess such applications. (2) Following the receipt of any application for modification filed by the Department of Corrections which conforms with any regulations and requirements of the Board of Parole promulgated pursuant to paragraph (1) of this subsection, the Board of Parole shall hold a hearing under the provisions of § 4350(a) of this title for the purpose of making a recommendation to the trial court as to the approval or disapproval of the application. This hearing shall not be held unless written notice of the hearing is provided to the Attorney General's office at least 30 days prior to scheduled hearing date. A copy of the Department of Correction's application for modification shall be provided to the Attorney General's office along with written notice of the hearing date. (3) Following the hearing described in paragraph (2) of this subsection, the Board of Parole may reject an application for modification if it determines that the defendant constitutes a substantial risk to the community, or if it determines that the application is not based on good cause. Notwithstanding any provisions of this section to the contrary, any application rejected pursuant to this paragraph shall not be forwarded to the Superior Court, and any offender who is the subject of such rejected application shall not be the subject of a subsequent application for modification for at least 1 year, except in the case of serious medical illness or infirmity of said offender. (4) Only in those cases where the Board by a majority vote recommends a modification of the sentence shall the application be submitted to the Court for consideration. (e) Upon receipt of the recommendation of the Board of Parole, the court may in its discretion grant or deny the application for modification of sentence. The court may request additional information, but need not hold further hearings on the application. The Court shall not act upon the application without first providing the Attorney General's office with a reasonable period of time to be heard on the matter. Should the Court deny the application because of a determination that the defendant constitutes a substantial risk to the community, or because it determines that the application lacks good cause, the defendant who is the

subject of the denied application shall not be the subject of a subsequent application for modification for at least 1 year, except in the case of serious medical illness or infirmity of the defendant. (f) Notwithstanding any provision of this section to the contrary, in the case of any offender who is serving a sentence of incarceration at Level V imposed pursuant to a conviction for any crime, the Court may order that said offender shall be ineligible for sentence modification pursuant to this section until a specified portion of said Level V sentence has been served, except that no offender who is serving a sentence of incarceration at Level V imposed pursuant to a conviction for a violent felony in Title 11 shall be eligible for sentence modification pursuant to this section until the offender has served at least one-half of the originally imposed Level V sentence, and no offender who is serving a statutory mandatory term of incarceration at Level V imposed pursuant to a conviction for any offense set forth in Title 11 shall be eligible for sentence modification pursuant to this section during the mandatory portion of said sentence. Nothing in this paragraph shall preclude a sentence modification pursuant to this section which is based solely upon serious medical illness or infirmity of the offender. (g) Nothing contained in this section shall be construed to limit the court's ability to modify a sentence within the scope of the trial court's duly promulgated rules. (h) For purposes of this section, "rehabilitation" is defined as the process of restoring an individual to a useful and constructive place in society especially through some form of vocational, correctional, or therapeutic retraining. 67 Del. Laws, c. 130, § 14; 67 Del. Laws, c. 350, §§ 4-6; 69 Del. Laws, c. 311, §§ 1-3; 70 Del. Laws, c. 186, § 1; 77 Del. Laws, c. 362, §§ 1, 2.;

Federal Bureau of Prisons

Statutory Authority § 3582. Imposition of a sentence of imprisonment (c) Modification of an Imposed Term of Imprisonment.— The court may not modify a term of imprisonment once it has been imposed except that— (1) in any case—(A) the court, upon motion of the Director of the Bureau of Prisons, may reduce the term of imprisonment (and may impose a term of probation or supervised release with or without conditions that does not exceed the unserved portion of the original term of imprisonment), after considering the factors set forth in section 3553 (a) to the extent that they are applicable, if it finds that—(i) extraordinary and compelling reasons warrant such a reduction; and that such a reduction is consistent with applicable policy statements issued by the Sentencing Commission. . Bureau Policy - Policy 5050.46 Compassionate Release; Procedures for Implementation of 18 U.S.C. 3582 (c)(1)(A) & 4205(g) Regulation 28 C.F.R. 571.61 – Compassionate Release Procedures for the Implementation of 18 U.S.C. 3582(c)(1)(A) and 4205(g)

Indiana

INDIANA DEPARTMENT OF CORRECTION

Health Care Services

Directive Number: HCSD-2.02

Application: Adult Facilities

Date: May 15, 2003

Supersedes: HCSD 2.02 April 2, 2001

TITLE: MEDICAL CLEMENCY

PURPOSE: This Health Care Services Directive establishes guidelines for the participation of health services staff in the evaluation of offenders for medical clemency.

GUIDELINES: 1. Medical Clemency is a process through which an offender may, due to a health condition, be released from prison earlier than would otherwise be possible.

The final decision regarding release is made by the Governor of the State of Indiana; recommendations regarding the proposed release are also made by the Facility Head, the Commissioner, and the Indiana Parole Board/Clemency Commission. The Health Services Division does not make any recommendation regarding release. Rather, it provides information to the decision-makers so that an informed decision can be made.

2. When a request for consideration for medical clemency is received, health care staff must review the offender's health history and condition, and provide the following information in a manner that can be understood by a lay person: a. Complete list of diagnoses, including basis for diagnosis as appropriate, b. Description of current and expected physical limitations, c. Description of current and expected medical treatment needs, d. Discussion of any controversy regarding diagnosis or treatment, and e. Prognosis. No recommendation for or against clemency should be made, even if requested.

The purpose of the response to the request for information is to provide enough information to permit the appropriate decision-makers to determine if the offender still represents a threat to society and to understand the nature of the health condition. The response must be made within two (2) weeks of receipt of the request.

ATTACHMENTS: NONE; **SITE SPECIFIC NEEDS:** None; **RELATED STANDARDS:** NCCHC 1997 None; NCCHC 2003 None; ACA None; **PRIMARY AUTHOR:** Please send comments to Dean Rieger MD MPH **AUTHORITY:**

Maryland (following page)

STATE OF MARYLAND
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES
DIVISION OF CORRECTION

 DIVISION OF CORRECTION DIRECTIVE	PROGRAM:	MEDICAL
	DCD #:	130-8
	TITLE:	MEDICAL PAROLE
	ISSUED:	August 1, 2003
	AUTHORITY:	<i>[Signature]</i> ASSISTANT COMMISSIONER
	APPROVED:	<i>[Signature]</i> COMMISSIONER

- I. References:
- A. Karnofsky Performance Scale
 - B. DCD 100-11, Parole Procedures
 - C. DCD 126-500, Social Work Case Management
 - D. Commitment Procedure Manual
- II. Applicable to: Division of Correction Headquarters and all Division of Correction Institutions and Facilities
- III. Purpose: To establish criteria for inmate eligibility for medical parole consideration and procedures for evaluating potentially eligible inmates.
- IV. Definition: Medical Parole: A parole release granted by the Maryland Parole Commission to an inmate who meets eligibility criteria as established by the Division of Correction (DOC) and the Maryland Parole Commission (MPC).
- V. Policy: An inmate may be considered for medical parole if, in the opinion of the regional medical director, the inmate will not jeopardize public safety if released, and the inmate:
- A. has a terminal condition and an expected survival time of less than one year;
 - B. has a medical condition that incapacitates the inmate to the extent that continued imprisonment is not required to ensure public safety; or,
 - C. has a medical condition that, if the inmate were released, would more appropriately be treated through direct access to community treatment facilities.

VI. Procedure:

A. Medical Responsibilities

1. The regional medical director shall be responsible for initiating procedures for medical parole. The regional medical director/physician designee shall medically evaluate all inmates who are candidates for medical parole.
2. If an inmate meets the DOC criteria for medical parole consideration, the regional medical director/physician designee shall inform the inmate that he/she qualifies as a candidate. The inmate shall sign a consent for release of medical information (relevant to his/her qualification for medical parole) addressed to the head of the case management department, the warden, and to community support services essential to the development of an aftercare plan. The signed consent for release of medical information shall be placed in the inmate's medical record.
3. The regional medical director shall complete and sign the Physician Evaluation for Medical Parole form, DC Form 130-8aR (Appendix 1) and ensure receipt of the form by the following four individuals within three workdays:
 - a. The case management manager/supervisor or facility administrator at the facility housing the inmate, as appropriate;
 - b. The regional social work supervisor;
 - c. The DPSCS medical director; and
 - d. The director of social work and addiction services.

B. Social Work Responsibilities

1. Upon receipt of the Physician Evaluation for Medical Parole form, the regional social work supervisor shall assign the inmate's case to a social worker who shall develop an aftercare plan. Consultation from other disciplines (such as psychology) shall be initiated as needed.
2. An outline of the aftercare plan shall be recorded on the Clinical Case Management Program Aftercare Plan, an appendix attached to DCD 126-500.

3. By the fifteenth workday, after receipt of the Physician Evaluation form, the social worker assigned to the inmate's case shall submit the completed Clinical Case Management Program Aftercare Plan to the case management manager.

C. Case Management Responsibilities

1. Upon receipt of the Physician Evaluation form, the case management manager shall immediately assign the inmate's case to a case manager to complete an Automated Pre-Parole Summary.
2. The chronological synopsis outline in the Automated Pre-Parole Summary shall begin with an entry of the inmate's last parole hearing and the results of that hearing. Subsequent entries shall be made in accordance with the requirements of DCD 100-11. The assigned case manager shall make a recommendation for or against medical parole. This recommendation shall be based solely on public safety considerations. The case manager shall provide a rationale for the recommendation.
3. If the inmate has a detainer, the following steps shall be taken to resolve the detainer:
 - a. The case manager shall notify the case management manager and shall then contact the agency that issued the detainer and advise the agency that the inmate is being considered for medical parole. The manager shall request that the agency consider lifting the detainer if the inmate is approved for medical parole.
 - b. The manager shall request a written response from the agency holding the detainer within five workdays. All actions taken by the manager shall be documented on the Inmate Progress Sheet (DC Form 100-218) and on the Automated Pre-Parole Summary.
 - (1) The documentation shall include the name of the agency contacted, the name of the person at the agency to whom the manager spoke, the agency telephone number, and the results of the telephone conversation.
 - (2) If requested, a written request shall be sent to the agency that issued the detainer.
 - (3) A copy of the written response shall be forwarded to the commitment office for filing in the commitment file.

- c. If the agency issuing the detainer fails to respond in writing within five workdays or does not lift the detainer, the manager shall initiate a follow-up telephone call to the agency to inquire about the status of the detainer.
 - (1) The follow-up agency contact and response shall be documented on the Inmate Progress Sheet and the Automated Pre-Parole Summary.
 - (2) If the agency holding the detainer fails to respond to the follow-up request within two workdays, the case management manager shall advise the director or chief of case management.
 - 4. The case manager shall sign and forward the completed Automated Pre-Parole Summary to the case management manager by the fifteenth workday.
 - 5. The case management manager shall review and forward the signed Automated Pre-Parole Summary, the Physician Evaluation form and the Clinical Case Management Program Aftercare form to the warden to obtain his/her recommendation for or against medical parole, not later than the seventeenth workday after receipt of the Physician Evaluation form.
 - 6. The warden/designee shall either approve or disapprove the recommendation for medical parole in the space provided on the Automated Pre-Parole Summary. The warden/designee shall also provide rationale for his/her recommendation for or against medical parole. Regardless of his/her recommendation, the warden shall forward all paperwork to the director of social work and addiction services by the nineteenth workday after receipt of the Physician Evaluation for Medical Parole.
 - 7. Copies of all paperwork submitted to the director of social work and addiction services shall be filed in section II of the inmate base file and in the inmate's medical record.
- D. Division of Correction Headquarters Review
- 1. The director of social work and addiction services shall document receipt of the medical parole paperwork submitted by the warden and conduct an immediate review of the inmate's case in consultation with the DPSCS medical director.

2. Unless additional information is deemed necessary, the DPSCS medical director and the director of social work and addiction services/designee shall submit the medical parole paperwork with their recommendations and rationale for or against medical parole to the Commissioner/designee within five workdays.
3. The Commissioner/designee shall review the case and either approve or disapprove the recommendation.

E. Maryland Parole Commission Review

1. The MPC, upon review of the request for medical parole consideration, may request additional information as necessary from the DPSCS medical director, the director of social work and addiction services and the director of case management.
2. The MPC shall review the medical parole and forward its decision to the Commissioner, the DPSCS medical director and the director of social work and addiction services. The Commissioner shall ensure distribution to the director of case management and the warden.

F. Medical Parole Decision and Implementation

1. If approved by the Commissioner/designee, the case records and all related information shall be forwarded to the MPC for review.
2. If disapproved, written notification shall be sent to the warden by the director of social work and addiction services, who shall forward the information to the case management department for placement in section II of the inmate's base file.
3. The inmate shall be notified by the social worker and assigned case manager if the request is disapproved.
4. Upon receipt of the medical parole decision, the director of social work and addiction services shall immediately notify the regional supervisor of social work who shall notify the case management manager and the regional medical director of the decision.
5. Upon receipt of the parole decision, the assigned social worker and the assigned case manager shall, as a team, meet with the inmate to inform him/her of the decision.
6. If approved, the regional supervisor of social work shall ensure that the regional medical director and other appropriate medical staff are informed

of medical parole approval and that the assigned social worker completes the following tasks:

- a. Completes and implements a detailed aftercare treatment plan that includes, at a minimum, the following provisions:
 - (1) Residence after release
 - (2) Primary medical care
 - (3) Financial support
 - b. Notifies the release unit of the MPC of the specifics of the completed aftercare plan so that the earliest possible release date can be established.
7. Once the MPC has established a release date for an inmate granted medical parole, the assigned social worker shall notify the case management manager of the exact date that the inmate will be paroled.
 8. The case management manager shall ensure that the case manager, the inmate, and appropriate institutional personnel responsible for processing release are notified of the release date.
 9. The facility administrator and the case management manager shall contact the agency(ies) that placed a detainer(s) against the inmate and request that written authorization to lift the detainer be immediately faxed to the appropriate commitment office. Upon receipt of the written authorization to lift the detainer, commitment office staff shall follow the procedures described in chapter 90-330 of the commitment procedure manual.
 10. If for any reason the aftercare plan cannot be implemented within ten workdays of the MPC approval, the assigned social worker shall notify the regional supervisor of social work and the director of social work and addiction services.

G. No institutional directive is required.

VII. Attachment: Appendix 1, Physician Evaluation for Medical Parole (DC Form 130-8aR)

VIII. Rescission: DCD 130-100, Section 190, dated June 9, 1994

Distribution:

- A
- C
- L
- S – Medical department heads

Michigan

The commutation process is authorized in MCL 791.244 and Sec. 44 (d) states the following: "If an application or initiation of commutation is based on physical or mental incapacity, direct the bureau of health care services to evaluate the condition of the prisoner and report on that condition. If the Bureau of Health Care Services determines that the prisoner is physically or mentally incapacitated, the Bureau shall appoint a specialist in the appropriate field of medicine, who is not employed by the department, to evaluate the condition of the prisoner and to report on that condition. These reports are protected by the doctor-patient privilege of confidentiality, except that these reports shall be provided to the governor for his or her review." MCL 791.235 Release of prisoner on parole; procedure also speaks to this issue. Section 35 (10) states, "The parole board may grant a medical parole for a prisoner determined to be physically or mentally incapacitated. A decision to grant a medical parole shall be initiated upon the recommendation of the bureau of health care services and shall be reached only after a review of the medical, institutional, and criminal records of the prisoner." Note however that Truth in Sentencing legislation supersedes this for those who have not yet reached their earliest release date. Therefore, inmates who have not attained their Parole minimum date must seek release for medical reasons via a commutation. Link is: www.legislature.mi.gov

Missouri

Offender with terminal disease or advanced age where confinement will endanger or shorten life, report to governor, procedure. 217.250. Whenever any offender is afflicted with a disease which is terminal, or is advanced in age to the extent that the offender is in need of long-term nursing home care, or when confinement will necessarily greatly endanger or shorten the offender's life, the correctional center's physician shall certify such facts to the chief medical administrator, stating the nature of the disease. The chief medical administrator with the approval of the director will then forward the certificate to the board of probation and parole who in their discretion may grant a medical parole or at their discretion may recommend to the governor the granting or denial of a commutation. (L. 1982 H.B. 1196 § 62, A.L. 1989 H.B. 408, A.L. 1994 S.B. 763)

New York State (following page)

PROGRAM BILL #200R

S.

Senate

EXTRAORDINARY SESSION #5

IN SENATE--Introduced by Sen

--read twice and ordered printed,
and when printed to be committed
to the Committee on

----- A.
Assembly

IN ASSEMBLY--Introduced by M. of A.

with M. of A. as co-sponsors

--read once and referred to the
Committee on

PENALA

(Relates to eligibility of certain
felony offenders for parole and
medical parole)

Pen L. parole and medical parole

AN ACT

to amend the penal law and the execu-
tive law, in relation to consec-
utive sentences for certain felony
offenders and their eligibility for
parole and medical parole

The People of the State of New
York, represented in Senate and
Assembly, do enact as follows:

IN SENATE

Senate introducer's signature

The senators whose names are circled below wish to join me in the sponsorship
of this proposal

a20 Adams	a03 Foley	a24 Lanza	a12 Onorato	a09 Skelos
a15 Addabbo	a08 Fuschillo	a39 Larkin	a37 Oppenheimer	a14 Smith
a55 Alessi	a22 Golden	a01 LaValle	a11 Padavan	a25 Squadron
a48 Aubertino	a47 Griffio	a40 LaBell	a21 Parker	a58 Stachowski
a42 Bonacic	a06 Hannon	a52 Liboux	a30 Perkins	a16 Stavisky
a46 Breslin	a36 Hassell-	a45 Little	a61 Ransohofur	a35 Stewart-
a50 DeFrancisco	Thompson	a95 Maccollino	a56 Robach	Cousins
a32 Diaz	a18 Huntley	a62 Masiera	a41 Saland	a60 Thompson
a17 Dilan	a07 Johnson, C.	a43 McDonald	a19 Sampson	a49 Valosky
a29 Duane	a04 Johnson, O.	a13 Monserata	a23 Savino	a59 Volkor
a33 Espada	a14 Klein	a18 Montgomery	a31 Schneidorman	a53 Winner
a44 Farley	a26 Krueger	a38 Morahan	a28 Sorzano	a57 Young
a02 Flanagan	a27 Kruger	a54 Nozzolio	a51 Seward	

IN ASSEMBLY

Assembly introducer's signature

The Members of the Assembly whose names are circled below wish to join me in the
multi-sponsorship of this proposal:

a049 Abbato	a010 Conte	a148 Hayes	a017 McKevitt	a067 Rosenthal
a001 Alessi	a032 Cook	a083 Heastia	a022 Meng	a118 Russell
a021 Alfano	a142 Corwin	a028 Nevesl	a102 Miller, J.	a012 Saladino
a105 Amedora	a085 Crespo	a048 Mikind	a038 Miller, M.	a113 Sayward
a084 Arroyo	a107 Crouch	a018 Hooper	a052 Millman	a029 Scarborough
a035 Aubry	a063 Cusick	a144 Hoyt	a103 Molinaro	a016 Schimel
a136 Bacalles	a045 Cymbrowitz	a050 Hyer-Sponcor	a132 Morolle	a140 Schimminger
a099 Ball	a138 DelMonte	a042 Jacobs	a037 Nolan	a146 Schroeder
a124 Barclay	a034 DenDokker	a095 Jaffee	a128 Oaks	a122 Scorzafava
a014 Barra	a116 Destito	a057 Jeffries	a069 O'Donnell	a064 Silver
a040 Barron	a081 Dinowitz	a121 John	a137 O'Hara	a100 Skartados
a082 Benedetto	a114 Duprey	a112 Jordan	a051 Ortiz	a093 Spano
a079 Benjamin	a003 Eddington	a074 Kavanagh	a150 Parment	a123 Stripa
a071 Bing	a004 Englebright	a065 Kollner	a088 Paulin	a011 Sweeney
a055 Boyland	a130 Errigo	a129 Kolb	a141 Peoples-	a110 Tediaco
a008 Boyle	a072 Espallat	a135 Koon	Stokes	a002 Thiole
a089 Bradley	a071 Farrell	a025 Lansen	a039 Feraita	a061 Titone
a044 Brennan	a005 Fields	a091 Latimer	a058 Perry	a031 Titus
a092 Brodeky	a123 Finch	a013 Lavine	a023 Phoffer	a054 Tobacco
a046 Brook-Krassy	a007 Fitzpatrick	a050 Lentol	a068 Powell	a054 Tompa
a147 Burling	a143 Gabryszak	a125 Lifton	a087 Fratlew	a115 Townsend
a117 Butler	a090 Galef	a127 Lopez, P.	a146 Quinn	a015 Walker
a101 Cahill	a133 Gantt	a051 Lopez, V.	a097 Rabbitt	a041 Weinstein
a096 Calhoun	a036 Giannaris	a126 Lupardo	a009 Raia	a020 Weisenborg
a043 Casara	a077 Gibson	a111 Magee	a006 Remos	a024 Waprin
a106 Canestrari	a149 Giglio	a120 Magnarelli	a134 Reilich	a070 Wright
a026 Carozza	a066 Glick	a059 Mainel	a109 Reilly	a094 Zubrowski
a066 Castro	a108 Gordon	a030 Markey	a070 Rivera, J.	
a119 Christensen	a075 Gottfried	a027 Mayersohn	a080 Rivera, N.	
a033 Clark	a098 Gunther	a019 McDonough	a076 Rivera, P.	
a047 Colton	a139 Hawley	a104 McNony	a056 Robinson	

1) Single House Bill (introduced and printed separately in either or both
houses). Uni-Bill (introduced simultaneously in both houses and printed as one
bill. Senate and Assembly introducer sign the same copy of the bill).

2) Circle names of co-sponsors and return to introduction clerk with 2 signed
copies of bill and 4 copies of memorandum in support (single houses); or 4 signed
copies of bill and 8 copies of memorandum in support (uni-bill).

1 Section 1. Subdivision 2-a of section 70.25 of the penal law, as
2 amended by section 40 of chapter 7 of the laws of 2007, is amended to
3 read as follows:

4 2-a. When an indeterminate or determinate sentence of imprisonment is
5 imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivi-
6 sion three or four of section 70.70, subdivision three or four of
7 section 70.71 or subdivision five of section 70.80 of this article, or
8 is imposed for a class A-I felony pursuant to section 70.00 of this
9 article, and such person is subject to an undischarged indeterminate or
10 determinate sentence of imprisonment imposed prior to the date on which
11 the present crime was committed, the court must impose a sentence to run
12 consecutively with respect to such undischarged sentence.

13 § 2. Subdivision 2-a of section 70.25 of the penal law, as amended by
14 section 41 of chapter 7 of the laws of 2007, is amended to read as
15 follows:

16 2-a. When an indeterminate or determinate sentence of imprisonment is
17 imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivi-
18 sion three or four of section 70.70, subdivision three or four of
19 section 70.71 or subdivision five of section 70.80 of this article, or
20 is imposed for a class A-I felony pursuant to section 70.00 of this
21 article, and such person is subject to an undischarged indeterminate
22 sentence of imprisonment imposed prior to the date on which the present
23 crime was committed, the court must impose a sentence to run consec-
24 utively with respect to such undischarged sentence.

25 § 3. Paragraph (a) of subdivision 1 of section 259-r of the executive
26 law, as amended by section 1 of part J of chapter 56 of the laws of
27 2009, is amended to read as follows:

1 (a) The board shall have the power to release on medical parole any
2 inmate serving an indeterminate or determinate sentence of imprisonment
3 who, pursuant to subdivision two of this section, has been certified to
4 be suffering from a terminal condition, disease or syndrome and to be so
5 debilitated or incapacitated as to create a reasonable probability that
6 he or she is physically or cognitively incapable of presenting any
7 danger to society, provided, however, that no inmate serving a sentence
8 imposed upon a conviction for murder in the first degree or an attempt
9 or conspiracy to commit murder in the first degree shall be eligible for
10 such release, and provided further that no inmate serving a sentence
11 imposed upon a conviction for any of the following offenses shall be
12 eligible for such release unless in the case of an indeterminate
13 sentence he or she has served at least one-half of the minimum period of
14 the sentence and in the case of a determinate sentence he or she has
15 served at least one-half of the term of his or her determinate sentence:
16 murder in the second degree, manslaughter in the first degree, any
17 offense defined in article one hundred thirty of the ^(see offenses) penal law or an
18 attempt to commit any of these offenses. Solely for the purpose of
19 determining medical parole eligibility pursuant to this section, such
20 one-half of the minimum period of the indeterminate sentence and one-
21 half of the term of the determinate sentence shall not be credited with
22 any time served under the jurisdiction of the state department of
23 correctional services prior to the commencement of such sentence pursu-
24 ant to the opening paragraph of subdivision one of section 70.30 of the
25 penal law or subdivision two-a of section 70.30 of the penal law, except
26 to the extent authorized by subdivision three of section 70.30 of the
27 penal law.

1 § 4. Paragraph (a) of subdivision 1 of section 259-r of the executive
2 law, as amended by section 2 of part J of chapter 56 of the laws of
3 2009, is amended to read as follows:

4 (a) The board shall have the power to release on medical parole any
5 inmate serving an indeterminate or determinate sentence of imprisonment
6 who, pursuant to subdivision two of this section, has been certified to
7 be suffering from a terminal condition, disease or syndrome and to be so
8 debilitated or incapacitated as to create a reasonable probability that
9 he or she is physically or cognitively incapable of presenting any
10 danger to society, provided, however, that no inmate serving a sentence
11 imposed upon a conviction for murder in the first degree or an attempt
12 or conspiracy to commit murder in the first degree shall be eligible for
13 such release, and provided further that no inmate serving a sentence
14 imposed upon a conviction for any of the following offenses shall be
15 eligible for such release unless in the case of an indeterminate
16 sentence he or she has served at least one-half of the minimum period of
17 the sentence and in the case of a determinate sentence he or she has
18 served at least one-half of the term of his or her determinate sentence:
19 murder in the second degree, manslaughter in the first degree, any
20 offense defined in article one hundred thirty of the penal law or an
21 attempt to commit any of these offenses. Solely for the purpose of
22 determining medical parole eligibility pursuant to this section, such
23 one-half of the minimum period of the indeterminate sentence and one-
24 half of the term of the determinate sentence shall not be credited with
25 any time served under the jurisdiction of the state department of
26 correctional services prior to the commencement of such sentence pursu-
27 ant to the opening paragraph of subdivision one of section 70.30 of the
28 penal law or subdivision two-a of section 70.30 of the penal law, except

1 to the extent authorized by subdivision three of section 70.30 of the
2 penal law.

3 § 5. Paragraph (a) of subdivision 1 of section 259-s of the executive
4 law, as added by section 6 of part J of chapter 56 of the laws of 2009,
5 is amended to read as follows:

6 (a) The board shall have the power to release on medical parole any
7 inmate serving an indeterminate or determinate sentence of imprisonment
8 who, pursuant to subdivision two of this section, has been certified to
9 be suffering from a significant and permanent non-terminal condition,
10 disease or syndrome that has rendered the inmate so physically or cogni-
11 tively debilitated or incapacitated as to create a reasonable probabili-
12 ty that he or she does not present any danger to society, provided,
13 however, that no inmate serving a sentence imposed upon a conviction for
14 murder in the first degree or an attempt or conspiracy to commit murder
15 in the first degree shall be eligible for such release, and provided
16 further that no inmate serving a sentence imposed upon a conviction for
17 any of the following offenses shall be eligible for such release unless
18 in the case of an indeterminate sentence he or she has served at least
19 one-half of the minimum period of the sentence and in the case of a
20 determinate sentence he or she has served at least one-half of the term
21 of his or her determinate sentence: murder in the second degree,
22 manslaughter in the first degree, any offense defined in article one
23 hundred thirty of the penal law or an attempt to commit any of these
24 offenses. Solely for the purpose of determining medical parole eligibil-
25 ity pursuant to this section, such one-half of the minimum period of the
26 indeterminate sentence and one-half of the term of the determinate
27 sentence shall not be credited with any time served under the jurisdic-
28 tion of the state department of correctional services prior to the

1 commencement of such sentence pursuant to the opening paragraph of
2 subdivision one of section 70.30 of the penal law or subdivision two-a
3 of section 70.30 of the penal law, except to the extent authorized by
4 subdivision three of section 70.30 of the penal law.

5 § 6. This act shall take effect immediately; provided that:

6 (a) the amendments to subdivision 2-a of section 70.25 of the penal
7 law made by section one of this act shall apply to offenses committed on
8 or after the effective date of this act; and

9 (b) the amendments to subdivision 2-a of section 70.25 of the penal
10 law made by section one of this act shall be subject to the expiration
11 and reversion of such subdivision pursuant to subdivision d of section
12 74 of chapter 3 of the laws of 1995, as amended, when upon such date the
13 provisions of section two of this act shall take effect; and

14 (c) the amendments to paragraph (a) of subdivision 1 of section 259-r
15 of the executive law made by section three of this act shall be subject
16 to the expiration and reversion of such paragraph pursuant to subdivi-
17 sion d of section 74 of chapter 3 of the laws of 1995, as amended, when
18 upon such date the provisions of section four of this act shall take
19 effect.

 <p style="text-align: center;">STATE OF NEW YORK DEPARTMENT OF CORRECTIONAL SERVICES</p> <p style="text-align: center;">DIRECTIVE</p>	TITLE		NO.
	Medical Parole		4304
			DATE
			11/20/2009
SUPERSEDES	DISTRIBUTION	PAGES	DATE LAST REVISED
DIR# 4304 Dtd. 4/4/T997	A B	PAGE 1 of 3	
REFERENCES (Include but are not limited to) Executive Law 259-r	APPROVING AUTHORITY		
			

- I. PURPOSE:** This directive implements Executive Law, Section 259-r, "Release on Medical Parole," as it assigns specific responsibilities and functions to the Department of Correctional Services.
- II. ELIGIBILITY:** An inmate serving an indeterminate or determinate sentence may be eligible for medical parole if:
1. The inmate has:
 - a. A terminal health condition; or
 - b. A significant and permanent non-terminal condition, disease or syndrome; and
 2. The inmate is so physically or cognitively debilitated or incapacitated that there is a reasonable probability that he or she no longer presents any danger to society;
 3. The inmate is not serving a sentence for murder in the first degree, or an attempt to or conspiracy to commit murder in the first degree; and
 4. If the inmate is serving a sentence for murder in the second degree, manslaughter in the first degree, any offense defined in article 130 of the penal law or an attempt to commit any of these offences, the inmate shall have served at least one-half of the minimum period of the sentence and in the case of a determinate sentence he or she has served at least one-half of his or her sentence.
- III. PROCEDURE**
- A. Requests: At any time during an inmate's sentence, the inmate or someone acting on behalf of the inmate or a Department employee may make a request to the Commissioner or to the Division of Health Services that the inmate be considered for medical parole.
- The Division of Health Services shall keep a record of each request and, for medically appropriate cases, notify Classification and Movement which will determine the inmate's eligibility based on crime or sentence. If not disqualified by reason of crime or sentence, the Commissioner may, in his discretion, order a medical evaluation and discharge plan.
- B. Medical Evaluation
- The evaluation shall be made by a physician licensed to practice medicine in this State. Such physician shall either be employed by the Department, or shall render professional services at the request of the Department, or shall be employed by a hospital or medical facility used by the Department for medical treatment of inmates.
- The evaluation shall, at minimum, include:
1. A description of the condition, disease or syndrome suffered by the inmate;
 2. A prognosis concerning the likelihood that the inmate will not recover from such condition, disease or syndrome;
 3. A description of the inmate's physical or cognitive incapacity which shall include an assessment of ability to self-ambulate or perform significant normal activities of daily living and a prediction concerning the likely duration of that incapacity;

4. A list of current medications and their dosages, and comment on the inmate's ability to self-administer such medications;
 5. A statement by the physician of whether the inmate is so physically or cognitively debilitated or incapacitated as to be severely restricted in his or her ability to self-ambulate and to perform significant normal activities of daily living; and
 6. A recommendation of the type and level of services and treatment the inmate would require if granted medical parole and a recommendation for the types and settings in which the services and treatment should be given.
- C. Certification of Eligibility: The medical evaluation report shall be promptly forwarded to the Deputy Commissioner/Chief Medical Officer or his or her designee. The Deputy Commissioner/Chief Medical Officer shall determine within 7 working days of receipt of the medical evaluation and recommendation and advise the Commissioner if the inmate's medical status conforms to the criteria for medical parole.
- D. Referral to the Parole Board: Once an inmate is certified as eligible for medical parole by the Commissioner, the inmate shall be referred to the Board of Parole for consideration for release on medical parole.
- E. Medical Discharge Plan: As soon as an eligible inmate is referred to the Board of Parole, facility and Central Office Health Services and Division of Parole staff having knowledge, access to resources, and communications with relevant parties, shall begin preparing a medical discharge plan. Facility and Central Office Health Services and Division of Parole staff are authorized to request assistance from the Department of Health and from the county in which the inmate resided and committed his or her crime. This plan shall be forwarded as soon as possible to the Division of Parole for review and final approval from a supervision perspective.

The Deputy Commissioner/Chief Medical Officer may issue specific directions on a case-by-case basis. Typically, however, it is anticipated that Central Office Health Services staff in collaboration with the facility health services staff and Division of Parole staff shall identify and select specific providers.

1. The medical discharge plan shall take into account the inmate's preferences for placement to the extent possible, and shall include:
 - a. A level of care determination;
 - b. A description of special equipment or transportation needs and identification of the provider(s) of the equipment or transportation;
 - c. A description of the inmate's participation in the discharge plan and selection of care if competent to do so; if not competent, a description of surrogate decision maker's involvement, if any;
 - d. For home-care plans, an assessment by a provider of home-care services who has visited the home of the adequacy of the physical environment relative to the inmate's medical condition and care needs, and an assessment of the inmate's personal-support system;
 - e. A description of the ancillary support(s) needed by the inmate and/or care-giver and arrangements for same;
 - f. A report on the status of applications for Public Assistance/Medicaid; and
 - g. A report on the status of applications for institutional placement, if any.
2. When it appears by the report of the examining physician that an inmate's medical condition may meet the criteria for medical parole and the inmate may be in need of Public Assistance, facility staff shall notify the institutional Parole Officer who shall cause an application for Public Assistance to be forwarded to the Department of Social Services.

3. When an inmate who qualifies for release under Medical Parole is cognitively incapable of signing the requisite documentation to effectuate the medical discharge plan and after a diligent search no person has been identified who could otherwise be appointed as the inmate's guardian by a court of competent jurisdiction, then, solely for the purpose of implementing the medical discharge plan, the facility health services director at the facility where the inmate is currently incarcerated shall be lawfully empowered to act as the inmate's guardian for the purpose of effectuating his medical discharge.
- F. Pre-parole Responsibilities: Upon notification by the Parole Board that the inmate has been granted medical parole, facility health services staff in collaboration with institutional parole staff and Central Office Health Services staff shall coordinate release and transportation arrangements. The facility health services staff shall copy all appropriate medical records in its possession and send them to the physician or facility accepting care of the inmate.

Ohio

ORC 2967.05 Release as if on parole of dying prisoner. (A) As used in this section: (1) "Imminent danger of death" means that the inmate has a medically diagnosable condition that will cause death to occur within a short period of time. As used in division (A)(1) of this section, "within a short period of time" means generally within six months. (2)(a) "Medically incapacitated" means any diagnosable medical condition, including mental dementia and severe, permanent medical or cognitive disability, that prevents the inmate from completing activities of daily living without significant assistance, that incapacitates the inmate to the extent that institutional confinement does not offer additional restrictions, that is likely to continue throughout the entire period of parole, and that is unlikely to improve noticeably. (b) "Medically incapacitated" does not include conditions related solely to mental illness unless the mental illness is accompanied by injury, disease, or organic defect. (3)(a) "Terminal illness" means a condition that satisfies all of the following criteria: (i) The condition is irreversible and incurable and is caused by disease, illness, or injury from which the inmate is unlikely to recover. (ii) In accordance with reasonable medical standards and a reasonable degree of medical certainty, the condition is likely to cause death to the inmate within twelve months. (iii) Institutional confinement of the inmate does not offer additional protections for public safety or against the inmate's risk to reoffend. (b) The department of rehabilitation and correction shall adopt rules pursuant to Chapter 119. of the Revised Code to implement the definition of "terminal illness" in division (A)(3)(a) of this section. (B) Upon the recommendation of the director of rehabilitation and correction, accompanied by a certificate of the attending physician that an inmate is terminally ill, medically incapacitated, or in imminent danger of death, the governor may order the inmate's release as if on parole, reserving the right to return the inmate to the institution pursuant to this section. If, subsequent to the inmate's release, the inmate's health improves so that the inmate is no longer terminally ill, medically incapacitated, or in imminent danger of death, the inmate shall be returned, by order of the governor, to the institution from which the inmate was released. If the inmate violates any rules or conditions applicable to the inmate, the inmate may be returned to an institution under the control of the department of rehabilitation and correction. The governor may direct the adult parole authority to investigate or cause to be investigated the inmate and make a recommendation in the manner set forth in section 2967.03 of the Revised Code. An inmate released under this section shall be subject to supervision by the adult parole authority in accordance with any recommendation of the adult parole authority that is approved by the governor. The adult parole authority shall adopt rules pursuant to section 119.03 of the Revised Code to establish the procedure for medical release of an inmate when an inmate is terminally ill, medically incapacitated, or in imminent danger of death. (C) No inmate is eligible for release under this section if the inmate is serving a death sentence, a sentence of life without parole, a sentence under Chapter 2971. of the Revised Code for a felony of the first or second degree, a sentence for aggravated murder or murder, or a mandatory prison term for an offense of violence or any specification described in Chapter 2941. of the Revised Code. Effective Date: 10-06-1994; 2008 HB130 04-07-2009 A.R. 5120:1-1-40 Medical release. (A) As used in this rule: (1) "Imminent danger of death" means that the inmate has a medically diagnosable condition that will cause death to occur within a short period of time. "Within a short period of time" means generally within six months. (2) "Medically incapacitated" means any diagnosable medical condition, including mental dementia and severe, permanent medical or cognitive disability, that prevents the inmate from completing activities of daily living without significant assistance, that incapacitates the inmate to the extent that institutional confinement does not offer additional restrictions, that is likely to

continue throughout the entire period of parole, and that is unlikely to improve noticeably. "Medically incapacitated" does not include conditions related solely to mental illness unless the mental illness is accompanied by injury, disease, or organic defect. (3) "Terminal illness" means a condition that satisfies all of the following criteria: (a) The condition is irreversible and incurable and is caused by disease, illness, or injury from which the inmate is unlikely to recover; (b) In accordance with reasonable medical standards and a reasonable degree of medical certainty, the condition is likely to cause death to the inmate within twelve months; (c) Institutional confinement of the inmate does not offer additional protections for public safety or against the inmate's risk to reoffend. (B) No inmate is eligible for release under this section if the inmate is serving a death sentence, a sentence of life without parole, a sentence under Chapter 2971. of the Revised Code for a felony of the first or second degree, a sentence for aggravated murder or murder, or a mandatory prison term for an offense of violence or any specification described in Chapter 2941. of the Revised Code (C) Whenever it comes to the attention of an attending physician that an inmate may be in imminent danger of death because of a medical condition, medically incapacitated or terminally ill, that physician shall provide to the head of the institution a certificate indicating that the inmate is in imminent danger of death, medically incapacitated or terminally ill, and a separate statement generally describing the inmate's medical condition. (D) Upon receipt of the certificate and statement from the attending physician, the head of the institution shall cause the preparation of a background report concerning the inmate to be completed. (E) Upon receipt of the background report, the head of the institution shall determine whether to recommend release as if on parole. Subject to paragraph (I) of this rule, whenever such decision is to recommend release as if on parole, the head of the institution shall place the recommendation in a signed and dated written statement to the governor and immediately forward it to the director's office, together with the attending physician's certificate and statement and the background report. (F) Upon receipt of the head of the institution's statement, the background report, and the attending physician's certificate and statement, the director's office shall immediately request the superintendent of the adult parole authority conduct an investigation to determine whether there is appropriate community placement for the inmate and whether there is any other additional information which may assist the governor in deciding whether to grant release as if on parole to the inmate. A written report detailing the results of the investigation shall be submitted to the director's office within ten business days from the date the investigation was requested. (G) Upon receipt of the investigation report, the director's office shall forward the assembled documents, always including the head of the institution's recommendation and attending physician's certificate, to the governor. (H) If the governor authorizes release as if on parole and documents indicating such authorization are filed with the secretary of state and delivered to the head of the institution where the inmate is confined, the inmate may be released as if on parole. Terms and conditions of such release shall be made a part of the inmate's file. (I) If the inmate involved has had a first statutory hearing by the Parole Board at the time the attending physician determines that the inmate meets the criteria outlined in this rule, the head of the institution shall forward the recommendation and information about the severity of the inmate's condition to the parole board chair (1) The parole board chair shall review the material submitted by the head of the institution and cause the matter to be considered by the parole board. The decision whether or not to modify its earlier decision rests within the sound discretion of the parole board. The parole board may; (a) Make no change in its original decision; (b) Modify its decision and order the inmate's release on parole. (2) If the parole board elects to release the inmate, a release shall be effective as soon as placement can be arranged and

approved. Effective: 04/15/2010 R.C. 119.032 review dates: 01/12/2011 Promulgated Under: 119.03 Statutory Authority: 5120.01, 2967.05 Rule Amplifies: 2967.05 Prior Effective Dates: 9/7/78, 05/21/2006

Oregon

Early Parole Release for Medical Reason – Administrative Role - Our process is based upon Oregon Administrative Rules 144.126 which makes allowances for early release due to severe medical conditions. The Oregon Board of Parole and Post Prison Supervision adopted a specific process which fulfills the objectives of the OARs. The Early Parole Release (EPR) process is initiated by a request for consideration. Requests may come from the inmate, institution staff, or the inmate's family. Any request will initiate the EPR review process. Through this process the EPR Executive Committee, comprised of the Assistant Director, Operations, Chief Medical Officer, and Superintendent of the inmate's Facility, makes a carefully considered recommendation to the Director of DOC. The DOC Director makes an official recommendation to the Parole Board. The Oregon Board of Parole and Post Prison Supervision reviews the DOC recommendation and makes the final Decision whether to grant Early Release due to severe medical condition. ORS 144.126 Advancing release date of prisoner with severe medical condition including terminal illness or who is elderly and permanently incapacitated. (1) The State Board of Parole and Post-Prison Supervision may advance the release date of a prisoner who was sentenced in accordance with rules of the Oregon Criminal Justice commission or ORS 161.610. The release date may be advanced if the board determines that continued incarceration is cruel and inhumane and that advancing the release date of the prisoner is not incompatible with the best interests of the prisoner and society and that the prisoner is: (a) Suffering from a severe medical condition including terminal illness; or (b) Elderly and permanently incapacitated in such a manner that the prisoner is unable to move from place to place without the assistance of another person. (2) The board shall adopt rules establishing criteria for release plans for prisoners released under this section that, at a minimum, must insure appropriate supervision and services for the person released. (3) The provisions of this section do not apply to prisoners sentenced to life imprisonment without the possibility of release or parole under ORS 138.012 or 163.150.[1989 c.790 &27a;1991 c.133 &2;1993 c.198 &2;1999 c.1055 &14]

Wisconsin (following page)

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State of Wisconsin Department of Corrections

EXECUTIVE DIRECTIVE 31

August 1993 - Revised - October 1993

SUBJECT: Extraordinary Circumstances for Parole Consideration

I. Background

This directive formalizes the processes by which the Parole Commission reviews inmates for parole consideration under extraordinary circumstances.

Definitions/Terms:

Extraordinary circumstances means advanced age, infirmity or disability of the inmate, need for treatment or services not available within the correctional institution, a sentence to a term of imprisonment that is substantially disparate from the sentence usually imposed for a particular offense, or other circumstances warranting early release which are made known to the sentencing court pursuant to section PAC 1.05(1)(a) As defined in Administrative Code PAC 1.03(6).

Administrative Code Guidelines:

PAC 1.04 Functions of discretionary parole. The function of discretionary parole is four-fold:

1. To assure, in light of the nature and severity of the crime, that early release will not depreciate the seriousness of the offense.
2. To determine that optimum benefit has been derived from programs of education, training, and therapy.
3. To assess the risk to the community of early release
4. To determine in each individual case that there is reasonable certainty of a crime-free reintegration of the inmate into society.

PAC 1.05 Eligibility for parole. (1) BECOMING ELIGIBLE. An inmate becomes eligible for discretionary parole pursuant to s. 304.06, Stats., after serving 25% of the sentence imposed for the offense or six months, whichever is greater, or after serving 20 years of a life term, as modified by the formulas in ss. 302.11(1), (2), and 973.155, Stats., except when the court has set a parole eligibility date pursuant to s. 973.014(2), Stats.

IV. Policy:

The Chairperson may waive the 25 percent service of sentence requirement if it is determined that extraordinary circumstances warrant early parole consideration and the sentencing court, district attorney, and the victim, if available, have been notified and permitted to comment upon the proposed recommendations.

V. Procedures:

Whenever the Parole Commission receives notice, a review will be made to determine if in fact, extraordinary circumstances exist. The Parole Commission Chairperson will request information from the institution and/or field to confirm the nature and extent of the extraordinary circumstances. Information will be prepared for the Parole Commission's review.

Upon receipt of the requested information, the Parole Commission Chairperson will make a determination of whether or not it is appropriate to waive the 25 percent of service of sentence requirement. According to PAC 1.05(1) (a) notice of the determination to the court, district attorney, and victim is required.

If the inmate is already parole-eligible, a review of the information confirming extraordinary circumstances and the file will be completed by the Chairperson of the Parole Commission. A decision will be made as to the need to schedule a face to face or telephone interview with the inmate.

The Chairperson of the Parole Commission will consider the five thresholds for discretionary parole as follows:

1. Eligibility for statutory parole
2. Time served is sufficient so that release would not depreciate the seriousness of the offense.

3. Adjustment to the institution and program participation at the institution has been demonstrated in a satisfactory manner.
4. Adequate parole plan has been developed which addresses the extraordinary circumstances.
5. Whether discretionary parole would pose an unreasonable risk to the public as determined by the Commission.

The Parole Commission Chairperson may request additional parole planning information and/or community resource development depending upon the nature and extent of the extraordinary circumstances identified.

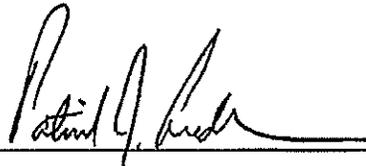
The Parole Commission Chairperson will make a decision either to defer a recommendation for continued monitoring of the extraordinary circumstances and/or recommend a discretionary parole with recommended conditions. The Division of Adult Institutions, Division of Program Services, Division of Probation and Parole, and/or Division of Intensive Sanctions will have an opportunity to provide input in the review of inmates under consideration based on extraordinary circumstances and will be advised of the Chairperson's decision.

VI. References:

PAC 1.03(6), 1.04, and 1.05
ss. 304.06, 973.014(2), 973.155, 302.11(1), and 302.11(2)
stats.

VII. Originated By:

Division of Adult Institutions



Patrick J. Fiedler
Secretary

Wyoming

Wyo. Stat. 7-13-424

<http://legisweb.state.wy.us/statutes/statutes.aspx?file=titles/Title7/T7CH13AR4.htm>

<http://michie.lexisnexis.com/wyoming/lpext.dll?f=templates&fn=main-h.htm> 7-13-424.

Medical parole; conditions. (a) Notwithstanding any other provision of law restricting the grant of parole, except for inmates sentenced to death or life imprisonment without parole, the board may grant a medical parole to any inmate meeting the conditions specified in this section. The board shall consider a medical parole upon receipt of written certification by a licensed treating physician that, within a reasonable degree of certainty, one (1) of the following circumstances exist: (i) The inmate has a serious incapacitating medical need which requires treatment that cannot reasonably be provided while confined in a state correctional facility; (ii) The inmate is incapacitated by age to the extent that deteriorating physical or mental health substantially diminishes the ability of the inmate to provide self-care within the environment of a correctional facility; (iii) The inmate is permanently physically incapacitated as the result of an irreversible injury, disease or illness which makes significant physical activity impossible, renders the inmate dependent on permanent medical intervention for survival or confines the inmate to a bed, wheelchair or other assistive device where his mobility is significantly limited; or (iv) The inmate suffers from a terminal illness caused by injury or disease which is predicted to result in death within twelve (12) months of the application for parole. (b) The board may only grant a medical parole if it first determines: (i) That, based on a review of all available information, one (1) or more of the conditions specified in subsection (a) of this section exists; (ii) That the inmate is not likely to abscond or violate the law if released; (iii) That living arrangements are in place in the community and sufficient resources are available to meet the inmate's living and medical needs and expenses; and (iv) That the inmate does not have a medical condition that would endanger public health, safety or welfare if the inmate were released, or that the inmate's proposed living arrangements would protect the public health, safety or welfare from any threat of harm the inmate's medical condition may pose. (c) Upon the board's request, an independent medical evaluation by a licensed physician shall be conducted, provided to the board and paid for by the department. (d) The board shall provide the prosecuting attorney and the sentencing court with prior notice of, and the opportunity to provide input regarding, a medical parole hearing for an inmate who is otherwise ineligible for parole. (e) The board shall impose terms and conditions of parole as it deems necessary, including but not limited to requiring periodic medical progress reports at intervals of not more than six (6) months, in granting a medical parole. A medical parole may be revoked if the parolee violates a condition of parole or if the medical condition which was the basis for the grant of parole no longer exists or has been ameliorated to the extent that the justification for medical parole no longer exists.